STATE OF NEW YORK

REPORT

OF THE

Joint Committee of the Senate and Assembly

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STATE OF NEW YORK

Appointed to Investigate

PRIMARY AND ELECTION LAWS OF THIS AND OTHER STATES

TRANSMITTED TO THE LEGISLATURE FEBRUARY 21, 1910

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No. 26.

IN SENATE

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REPORT OF THE JOINT COMMITTEE OF THE SENATE AND ASSEMBLY OF THE STATE OF NEW YORK, APPOINTED TO INVESTIGATE PRIMARY AND ELECTION LAWS OF THIS AND OTHER STATES.

To the Senate and Assembly:

The Joint Committee of the Senate and Assembly, appointed pursuant to concurrent resolution adopted April 29, 1909, submits the following report:

The resolution directed the Committee—

> "to examine into, consider and investigate the operation, efficiency and results of the so-called direct primary law for the nomination of candidates for elective offices in other States of the United States as well as the laws of this State regulating the conduct of party primaries and conventions, and, generally, into all matters pertaining to the election laws, for the purpose of determining what amendments, if any, to the present laws or laws governing primaries and elections are needed, the same, or what other further legislation may be needed upon the subject, and to report its recommendations to the Legislature on or before the first day of February, nineteen hundred and ten, together with proper and necessary bills to carry into effect its recommendations if such recommendations require it;"

The Committee organized June 11, 1909, and employed Walter H. Knapp, as counsel, Henry Seilheimer as secretary to the Committee, and Henry C. Lammert as official stenographer. The reso-

NOTE.—Reference is made to page of stenographer's record.

lution instructed the Sergeant-at-Arms of the Senate to attend to such duties as might be required of him by the Committee.

The public hearings were begun at the State House in the city of Boston, July 12, 1909, and similar hearings were conducted during the summer and fall in the cities of Philadelphia and Harrisburg and Pittsburg, in the State of Pennsylvania; in the city of Topeka, Kansas; Des Moines, Iowa; St. Paul, Minnesota; Madison and Milwaukee, in the State of Wisconsin; Chicago, Illinois; Indianapolis, Indiana; Detroit, Michigan. In this State, hearings were had in Buffalo, Albion, Orleans county, and in the city of New York.

Every courtesy and opportunity for the examination of records was extended to the Committee in other States, and excellent accommodations in the capitol buildings, city halls and county buildings, were given to the Committee without charge in the several cities visited. It will be understood that outside of the State of New York, the Committee had no jurisdiction to compel the attendance of witnesses by subpoena and had to rely upon the voluntary appearance and testimony of the persons interested in the subject-matter of the inquiry.

It is proper to say, however, that in every place visited by the Committee, men of the highest character, those holding high official positions, as well as men having held no political office, but standing high in the community in business and professional lines, were willing and helpful witnesses before the Committee.

Senator McCarren was able to attend only the hearings in Boston and Philadelphia, and died before the public sessions of the Committee were completed in New York State.

The Committee did not deem it wise or necessary to visit the Pacific Coast States where primary election laws have been enacted, but obtained some evidence of the working of the direct nomination systems in some of these states by correspondence and from the statements of witnesses, who have visited these localities and to some extent observed the working of their primary laws.

Although the resolution authorized the Committee, in general terms, to investigate election laws of other states, the work of the Committee was confined almost entirely to the investigation of nominating systems, both representative and direct, and to the results obtained in the actual operation of laws intended to control the methods of nomination of candidates for public elective office.

The report will attempt to summarize the testimony received by the Committee in each of the states visited, together with a brief digest of the laws of each state, in which there has been any legislative enactment attempting to control the nomination of candidates for public office by political parties.

MASSACHUSETTS.

Mr. Herbert H. Boynton, Deputy Secretary of the Commonwealth, for many years, whose evidence appears at pages 5-70 of the record, gave to the Committee a detailed statement of the substance of the primary laws in operation in this state. There is no state-wide mandatory primary law, but, except in the city of Boston, the form of the primary and whether candidates shall be nominated by direct vote, is determined by a referendum vote of the electors of particular districts and by special statutory enactment.

It is to be noted that among the other usual qualifications of voters, the law requires that every male citizen of twenty-one years of age or upwards, not being a pauper or person under guardianship, must be able to read the Constitution of the Commonwealth in the English language and write his name.

The official ballot is in the form of what is known as the "Australian ballot," the candidates of all parties being grouped in alphabetical order under the designation of the office, without party emblem or party column, and in this connection, we have appended to this report a tabulation of the number of registered voters at the state elections in 1907 and 1908, with the percentage of the vote cast in each of these years, which will be interesting to compare with similar conditions in New York State.

It will also be noted that judges of all courts of record are appointed and do not come under the elective system. Members of the School Committee in Boston are also especially exempted from the operation of a direct nomination system. In Boston, the election department is under the charge of a Board of Election Commissioners, consisting of four citizens appointed by the Mayor without confirmation of the Board of Aldermen, and said Board constitutes the "Boston Ballot Law Commission" and has general charge of all matters relating to registration of voters, primaries and elections. Personal registration is not required,

except in the year 1908 and every twelfth year thereafter, but the voting list is corrected each year by a system of police census, except that new voters may appear before the Board and qualify and register.

The general law controlling all caucuses in using official ballots provides that all caucuses of political parties for the choice of delegates to political conventions, which nominate candidates to be voted for at the annual state election and for the nomination of candidates to be voted for at such election, shall be held throughout the Commonwealth on a day designated by the State Committee of the political party, for which said caucuses are held, and no two parties shall hold caucuses on the same day. The law also provides for publication of notices of such caucuses and for the method of conducting the same, and prohibits persons who are members of one political party from voting in that of another, but upon challenge, he may take an oath in which he asserts his legal right to vote in the caucus of his choice.

In such caucuses, the ballot is usually furnished by the political parties or candidates.

There is also a provision of law, known as the "Boston Act," which has been adopted by the Republican party in eighteen of the cities and towns of the State, and by the Democratic party in seven. This act provides for an official ballot, and any city or town committee is required at the written request of fifty voters, members of its party, to call caucuses of said party to determine by ballot whether the provisions of law for the use of official ballots shall be adopted. If the official ballot is adopted, the political committees may still fix the time for holding the caucuses, but no two political parties shall hold their caucuses on same day. After one year's trial, a political party, which has accepted said special provisions of law, may revoke the same, and this has been done in several instances.

What is known as the "Luce Law," providing for joint caucuses, or primaries of political and municipal parties, was mandatory in Boston, and has been adopted by twelve of the cities and towns of the State, mostly located in the vicinity of Boston. The "joint caucus or primary" is conducted substantially the same as an election, except that the party official ballots are designated by different colored paper, and each voter, upon calling for a bal-

lot, must designate the party of his choice and by such designation becomes enrolled as a member of that party, and cannot receive a ballot of another party, unless, at least ninety days before the primary, he shall have applied to the Election Commissioners to change his party enrollment, or takes an oath at the primary to the effect that the election officers have made a mistake in enrolling him at the last primary. This method of enrollment seems to be quite successful in preventing the members of one party from voting the ballot of another, but of course absolutely prevents so-called " independents " from taking any part in the nomination of party candidates.

Any city or town, which has adopted the provisions of law for nominating at primaries, can adopt or abandon this system by referendum vote. In thirteen out of the forty Senatorial districts, candidates for Senator are nominated by the direct plan, though all do not use the official ballot; in one hundred and one out of one hundred and seventy-three representative (Assembly) districts, the direct nomination plan is in use; and in three out of fourteen Congressional districts; and one Councilor out of eight Councilor districts is nominated in this way.

Delegates to State and county conventions are elected at the same primaries upon the official ballot, and candidates for municipal offices in Boston, prior to the adoption of the new charter, and in other cities where adopted as before stated, are nominated by direct vote. Without a special legislative act, candidates for office cannot be nominated at the primaries by direct vote. A large number of bills were introduced at the last session of the Legislature and none of them were adopted, except one affecting Essex county, which became a law without the Governor's signature. There are no direct nominations for any county officers within the State.

The direct nominations plan for municipal officers has been in operation in the city of Boston since about the year 1901.

In 1907, a commission to consider the financial conditions of the city of Boston was authorized by Chapter 481 of the Acts of 1907 and Chapter 562 of the Acts of 1908. This commission consisted of seven members appointed by the Governor of the State and the mayor of the city of Boston, upon the recommendation of various commercial and real estate interests of the city.

Five Democrats and two Republicans were appointed to the commission. They served without pay and were men of the very highest character. Many of them practically gave up their business for a year and a half while working on the commission. All the members of the board acted with the greatest public spirit and disinterestedness, and their recommendations were accepted by the Massachusetts Legislature, which was Republican, and by a popular vote in Boston, a Democratic city. (See testimony of Charles W. Eliot, former president of Harvard University, pages 3226-3246).

The report was signed by six members of the commission as follows: Nathan Matthews, Chairman; George U. Crocker, George A. O. Ernst, John F. Moors, Randall G. Morris, and John A. Sullivan. Mr. Matthews was Mayor of the city of Boston for four terms, and at the last Harvard commencement was given the degree of LL.D. for distinguished services to the city and State upon this Finance Commission. Mr. John A. Sullivan was a Member of Congress and is the present chairman of the new Finance Commission of the city of Boston. Mr. George O. A. Ernst is a member of the School Board; Mr. George U. Crocker was the Deputy State Treasurer for some years.

The Committee made an exhaustive study of political conditions in the city, and especially of the method of nominating candidates for Mayor, Aldermen and Members of the Common Council; these candidates had been selected for about eight years by a system of direct nominations, with an official ballot and joint caucus and party enrollment of voters, similar to direct nomination plans of many other localities.

The experience of Boston and this method of nominations can be best expressed by quoting here from the report of said Boston Finance Commission, made in January, 1909, found on pages 22–24 of said report:

> "While the present system of nominating the candidates for mayor and city council at primary elections was adopted to correct certain abuses incident to the caucus and delegate convention, it has given rise to new evils more serious still; and it operates to make the nomination and election of representative citizens to the elective offices of the city government more difficult than under the former system.

"Whatever force there may be in the argument that party responsibility is a guarantee of good behaviour and a desirable check on individual misconduct, this argument presupposes the existence of a true political party with principles, organization and discipline.

"The direct primary system was not intended to abolish partisanship in municipal government; but in its practical working, there is no longer the partisanship of a great organization bound, theoretically at least, by party principles, and having some regard for its political responsibilities in the State at large. It is a partisanship of ward organizations, calling themselves Republican or Democratic as the case may be, but representing no municipal policies capable of formulation.

"Under the convention system it is possible for a party to nominate or endorse a candidate from the other party if it so desires. This has frequently been done in the case of the school committee and the county officers, and once in the case of the mayor. Under the present primary system this opportunity disappears entirely. No Republican can be nominated in the Democratic primaries and no Democrat can be nominated in the Republican primaries. Voters who would like to see their party endorse a strong member of the opposite party for a municipal election rather than put up a weak candidate of their own are powerless to accomplish this result.

"Our present electoral machinery is wholly unsuited to the requirements of successful municipal government through popular suffrage. Instead of bringing the choice of candidates nearer to the people it has enacted well-nigh insurmountable barriers between the individual voter and the free selection to which he is entitled, and which he must have before he can discharge his duty as a citizen. It has made it artificially difficult to secure good nominations; it has debarred the best and most representative citizens from participation in the government; it has increased the power of money in elections; it has practically handed the city over to the ward politicians. It tends to create bad government, no matter how strongly the people may desire good government; and to discredit the capacity of the people when congregated together in great cities to administer their municipal affairs.

"The effect of the present system of nominations upon the mayoralty elections has been particularly unfortunate, and so generally deplored as to require little comment in this report.

"Under the direct primary system a strong, honest and popular man is theoretically able to secure a nomination against the opposition of the party organization or "machine;" but practically he can do it only by entering into a personal contest with the ward politicians in every district. Desirable men shrink from this sort of a contest. A party nomination for mayor in this city is not so likely to be a choice by the party of its best candidate, as a personal contest between two or more active seekers for the office.

"The possession of concurrent power over appropriations and loans, aggregating $25,000,000 a year, and over the municipal ordinances for a population of 600,000 people, would seem to furnish sufficient honor to make a seat in the city council an object of legitimate ambition, and to cause whatever sacrifice of time may be involved to be looked upon as a civic duty. Membership in the city council, however, is quite generally regarded as a discredit rather than an honor; and it is difficult to induce representative men to become candidates for either branch."

In accordance with the recommendations of this Finance Commission, the Legislature at the session of 1909, adopted for the city of Boston a new charter, which abolished the direct nominations system for all city officers and provided for a referendum vote upon two plans, first, whether such officers should be nominated by delegate and convention system; and second, whether they should be nominated by petition, signed by 5,000 voters.

The commission recommended the latter plan and the abolition of the primary, and this was subsequently adopted by popular vote. It is a matter of common knowledge, which was also testified to by President Eliot, that at least ten candidates for the office of mayor undertook to get the required 5,000 signatures, and that one candidate, former Mayor FitzGerald, secured about 14,000 signatures early in the contest, and as a voter can sign but one petition, this naturally made it more difficult for other candi-

dates to secure signatures. The contest for signatures was very active and four candidates only secured the necessary 5,000. The election, which has just taken place, resulted in the choice of Mr. FitzGerald, the former Democratic mayor, whose administration was so severely condemned in the report of the Finance Commission. The new charter reduces the common council to a small number and attempts to do away with party control in the administration of the affairs of the city, and to conduct its business upon the lines of what is known as the Des Moines system.

The experiment is the most interesting and important one undertaken in this country for the administration of the affairs of a city of metropolitan size.

During the sessions of the Committee in Boston, the commission had the benefit of the views and experience of the following witnesses, who took a position more or less favorable to some system of direct nominations, and in some instances to the extension of the system in operation in Massachusetts to include all elective officers, including state officers and the abolition of all conventions, except possibly conventions for the nomination of school officers:

Robert Luce, author of a law enacted in 1902 concerning direct nominations, and the so-called Luce Law of 1903, providing for a joint caucus. Mr. Luce is regarded as the best authority in the city of Boston upon the subject of direct nominations, and not being present in the city at the time of the hearing, communicated with the Committee by letter, found at page 98 of the record. Mr. Luce concludes that the fear because of the multiplicity of candidates, which was predicted, has not been realized; that the scope of the choice between candidates may have been somewhat enlarged but not harmfully, but there has been no such increase of candidacies as was feared; that the choice by plurality vote has not been objectionable, and that there is no practical justification for the elaborate second and third primary complications that prevail in the south; that the system does not destroy the influence of party leaders, but keeps it within legitimate bounds, and that party members take more interest and become more earnest and loyal party workers than under the old system; that there is less bolting of candidates under this system and a greater increase in participation in the nominating process. He also contends that the

system has broken down what is known as the "rotation in office theory" by retaining useful servants in official positions as long as they will serve; that the State or municipality also gains by lessening "old locality claims;" in other words, there is no opportunity under this system for the distribution of candidates according to locality within the district; that the most serious objection to the system is its expense, but that direct nominations lessen the expense wherever the candidates would in any case have appealed to the voters, and it increases the expense where if the convention plan prevailed there would be no prior canvassing of the mass of voters, and Mr. Luce adds: "For this reason, I have come to the personal conclusion that the best system is one whereunder nomination may be made by convention, if there is no manifest occasion for a general canvas, something as is the case in an English parliamentary election, where a poll is taken only after two or more candidates have presented themselves. Of course, precisely that system could not apply here, but it is quite possible to provide that there shall be direct nomination wherever an appreciable number of voters petition for it."

Mr. Luce does not agree with the contention that direct nomination as far as applied in the State of Massachusetts is adapted only to districts territorially compact and says that "the fact is that populations have now so grown that no candidate is personally known to more than a small fraction of the voters, whether in city or country. Choice is made on the strength of the judgment of a comparatively few men, who advise others, directly or indirectly." He states that "the all important question — 'Does direct nomination get better candidates?' — cannot be answered statistically and any answer is but individual opinion."

Mr. William F. Murray, a resident of Charlestown, and representative in the years 1907 and 1908, advocated the extension of the direct nomination system, and gave an interesting account of his own experiences as a young man in politics. He claimed that many bright young men had been able to get into politics, both city and municipal, in and about Boston, by means of the direct nomination system, but stated that the expense to such candidates, who might be opposed by the so-called organization, would be considerable. Candidates for the State Senate, under this system,

usually expended from two to three thousand dollars to secure the nomination to an office, which pays a salary of $750. It seems to be generally conceded that better and more independent members of the school committee of the city of Boston can be selected by the convention system than by any system of direct nominations. And for this reason, the school committee is excepted from the operation of the joint caucus and the plan of nominations by the direct system. While it might be possible for a member of one party to be nominated by the ticket of another, Mr. Murray said that he had never known such a thing to happen. The fact also that only a small percentage of the minority party's enrolled voters participated in the primaries, while a much larger number of the majority party's voters came out to the primary, in cases of contest, either for the nomination or for party factional control, was brought out. At the State primary in 1908, the Democratic votes cast for a representative in Congress in the Ninth District were 14,269. Republican votes cast at the same primary in the same district, 1,846. At the election which followed, the Democratic candidate received 13,729 and the Republican candidate received 4,989.

This establishes the fact that in a Congressional district, which has a large Democratic majority, there were 540 more Democratic votes cast at the primary than were cast at the election, while there were 3,093 more votes cast for the Republican candidate at the election than at the primary, and this notwithstanding the fact that there was an apparent contest at the primary between Republican candidates. These figures show that only about 36 per cent. of the Republicans, who voted at the election, voted at the primary. Ordinarily a much smaller percentage of the enrolled vote of the minority party participates in the primary, as will be disclosed by the records of other states hereinafter set forth.

In the third ward of this same district, Democratic primary votes to the number of 1,876 were cast for a representative in Congress, while at the election only 1,661 votes were cast for the successful nominee, that is to say, 215 more Democratic votes were cast at the primary than at the election. It is claimed that many of those who voted the Democratic primary ticket were in reality Republicans and participated in the Democratic primary because

of the warm contest for the nomination. In each instance the so-called organization candidate won out.

Mr. David B. Shaw, a Democratic member of the Legislature from the same Charlestown district, testified favoring direct nominations systems along the same lines advocated by Mr. Murray. He also stated that it was the invariable rule in the Commonwealth, where primary elections exist, that the majority party become enrolled and participate in the primary, while but few of the minority party, being the Republican party in the city of Boston, become enrolled and take any interest in the primary (page 238).

Mr. Shaw was very bitter in his attacks upon the new charter of the city of Boston and characterized it as a "nefarious act" (page 244).

In the contest for Congress in the Ninth District, to which reference has been made, he admitted that Kelleher, who received the plurality, was favored by most of the Democratic Ward Committee, and that he did not know of a case since the direct system was in vogue in that Congressional district, when a man has been nominated for Congress, who did not have the support of the organization.

Mr. Shaw thought that the results of the direct system had been so good that it would be well for the community to extend it to the School Committee, and that it would secure fully as good, if not better, results, so far as the discipline and management of the schools are concerned. That it should also be extended to county officers, but he did not believe in extending it to the Governor (page 258); for the reason that, as he stated, "The Commonwealth, like the national government, is dependent a great deal on party for its political life;" that formulation of party platforms and principles can only be made at conventions. While he contended for the nomination of United States Senators by the direct method, he did not believe in the nomination of Governor in this way. He said of the Finance Commission, whose report has been referred to, that "A more condemned body never existed in this city" (page 266); and after a bitter attack upon them and their report, stated to the chairman of this Commission (page 276) "You do not want to take too much stock in the testimony given

by Mr. Matthews and Mr. Sullivan." He characterized these gentlemen as "disappointed politicians" and himself as an "active politician" (page 266).

The Commission also had the benefit of the views of Hon. James H. Vahey, former State Senator, and the Democratic nominee for Governor in 1908 and 1909 against the present Governor, Eben S. Draper.

Mr. Vahey supposed that "direct nominations" was an issue in his campaign in 1908, but was mistaken. He said that he should see that it was made an issue in 1909, and that he should make it as much a prominent issue as possible, so that it might to some degree reflect the sentiment of the people of Massachusetts upon this subject. It is doubtful if the issue was made very prominent during the campaign, but Mr. Vahey was unsuccessful at the election, though by a reduced majority against him. He gave it as his theory of popular government that so far as State, local and smaller municipal divisions of the State, are concerned, the question of party principle is not involved; that in State and municipal affairs party designations do not cut any figure (page 317). He does not think it is necessary in the government of a State to have any party responsibility at all for the conduct of the government, but prefers to rely solely upon the individual. In State and municipal affairs, he does not regard it as necessary to have direct nominations of party men, and does not see any reason for party nominations in State local affairs. He declared his belief in what is known as the *Initiative,* the *Referendum,* and the *Recall* (page 318), while strongly advocating the extension of direct nomination systems to all elective offices within the State, including Governor and United States Senators.

He said that complaint had been made that members of the minority party, particularly Republicans in the Charlestown district, participated in the primaries of the majority party. Where direct nominations are permitted and the party caucuses are held separately, the voter is not required to make any declaration of his party affiliation, unless challenged, and Mr. Vahey prefers the joint caucus, such as is provided in the Luce Law. He believed that the School Committee could be selected as well under the direct nomination system as by the convention, as is now pro-

vided by law; and charged the prevention of the extension of the direct nomination system in the State to the powerful influence of the United States Senator, who does not wish the Senatorship to be submitted to popular vote. When asked by a member of the committee as to whether he would regard that feature of the law proposed to be enacted in the State of New York, which provides for the suggestions of candidates at the primary by party committees and giving them preferential position, he stated that he would not regard that provision of the proposed law as a direct nomination feature, and believed that the preferential position, coupled with the fact that the candidate suggested by the committee would have the support of the organization, would give such candidate a considerable advantage over the independent opposing candidate.

Hon. Arthur Harrington, a former member of the House and Senate, gave the committee some of his personal experiences as a candidate under the direct nomination system.

Mr. Harrington claimed to have been defeated by this system where he would have been nominated by the convention, by reason of the fact that the organization, which was opposed to him, induced a third candidate to stand for the nomination. He also stated that the expense ordinarily was about three times as great under the direct system as under the convention system, " the larger the district, the greater the expense, because a greater number of people have to be reached with literature, and a greater number of halls have to be hired; and if you have to have workers at the polls a greater number of workers at the polls have to be paid and carriages, and in every way, according to the size of the district, of course, the expense is larger, but relatively it is about three times as great; that has been my experience in the last ten years " (page 337).

He says that there is no doubt that there is practice in the majority party on the part of candidates of inducing others to become candidates so as to split up the vote, and sometimes they put in the name of another person, who has a name similar to the person, whom they wish to oppose. As an instance, he mentioned the fact that one John L. Kelly was running for alderman and his opponent put in the name of John E. Kelly as a candidate.

For a time under the law, the candidate's name appeared upon the ticket in the order of filing, and there was great disorder and confusion at the place of filing, by candidates, who desired to get their names first on the ticket and obtain whatever advantage there might be from that position; now, however, they are put on in alphabetical order, except in the case of groups of delegates and they are put on in the order of filing, and the organizations desiring to get their delegates on first will hire rooms in the vicinity of the filing place, in order to be on hand when the nominations can be filed; there is no appeal from the decision of the local registrar, who marks the time of filing to suit himself. Mr. Harrington contended, however, that direct nominations worked well where there was a homogeneous, compact population, but in rural districts, it did not work well, and in all the districts where they still retain the "town meeting," they have invariably refused to ask for direct nominations for members of the House and Senate, for the reason that a large town in some district would always control the nomination and the rural district could not secure a candidate in the general court or in the Senate (page 341). He contended that the "machine candidates" will win in the city of Boston under the direct nomination plan ninety-nine times out of a hundred, and that the joint primary increases the majority party and decreases the minority party, because of the fact that the minority members will enroll in the majority party for primary purposes and ultimately become attached to such organization. Voters will enroll with the majority party because of patronage, which they may get, or appointments which they may receive from the majority party managers, knowing that if they were not enrolled in such party, it would be hopeless for them to ask for any appointment or patronage from the party in control. This, he claims, is not in any respect due to the direct nomination feature of the law, but the Enrollment Law required by the joint caucus. Mr. Harrington said that in a Senatorial district comprising the half of a city, which half contained probably one hundred thousand people, and also the half of a county containing nine or ten towns, a direct primary system would be absolutely impracticable. He cited the case of Charlestown, Cambridge and East Boston, which are in the same district; for twenty years Charlestown has had the Sena-

tor and the other two cities have never had a Senator, Charlestown being the strongest Democratic city in the State and being able for this reason to outvote the rest of the district.

Mr. Harrington contended that all administrative officers such as School Committees, Attorney-General, City Treasurer, should be nominated by the convention, upon the theory that he would thus be more removed from politics than if nominated by the direct system.

Mr. Richard L. Gay, who has compiled the Election Laws of the State of Massachusetts and has been Secretary of the Massachusetts State Election Law Association, presented his views to the committee, generally favoring the direct nomination systems of the State, as they are conducted at present, but did not believe that one universal law could be made to apply to the whole city or State; that there should be a law, which would leave it to the community, the district itself, to decide the question, and that in a district containing a large city and rural towns, a Direct Nominations Law would not work, for the reason that the city vote would control a nomination in every instance, while in a convention, by agreement, the nomination might be distributed to some extent. That the party has the right to say how they want to make nominations, and that he would leave it to the party by vote to determine whether they would nominate by convention or by direct vote; that the opposing party had no right to come in and dictate how this should be done; that there would be no objection to one party nominating by direct vote and the other party by convention in the same district (page 370). Mr. Gay does not believe in universal direct nominations, for State officers, nor that it can be applied universally; let each district decide for itself.

On July 14, the committee was invited to a luncheon given by the "Massachusetts Club," the oldest and most conservative of the Republican organizations in the city of Boston. There was a large attendance and speeches were made upon both sides of the direct nominations question.

Hon. William F. Murray, who had theretofore appeared before the committee, and Michael J. Ready, both Democrats and former members of the House, spoke in favor of a limited system in Massachusetts, and Mr. Gay urged the extension of it to all State officers, including the School Committee in Boston.

They were strongly opposed by Mr. Bishop, a Republican, and chairman of the Judicial Committee in Massachusetts House of Representatives, who spoke particularly of the effect of numerous candidates entering into the contest and by their presence and activity defeating the will of the people; that is to say, where under a convention system, there might be two prominent candidates for the office, under the direct system, without the endorsement of any particular organization, several candidates might enter the contest upon their own platforms and take away the votes that would otherwise have gone to a strong and popular candidate, and by the plurality system thus bring about his defeat.

Mr. Ready spoke particularly of the many evils of the old convention system in Boston, which caucuses and conventions were without any legislative control whatever; he had, however, been a successful candidate under both systems.

Mr. Charles T. Adams, a Republican and former Representative, asked the committee to remember that the Massachusetts system is the convention system, and that direct nominations have been adopted in only a few instances, but that the system, under which Massachusetts has nominated its candidates for public office during substantially all of its history, has been the convention system, and that the many great men that have come to the front in Massachusetts are the product of the convention system; that the men of Massachusetts should stand for that system, for deliberation, for discussion, and for conventions where men get together and talk over these things and come to the wisest and best conclusion. He said (page 431): "Now, when I was in the Legislature, this question was comparatively new and nearly everybody had a little touch of this sentiment in favor of what was called 'direct nominations by the people,' but really they have not turned out to be direct nominations by the people. They have turned out to be direct nominations by the candidates themselves. Because, as we all know, that this direct nomination business limits the voters to two or three candidates, who file their names early and get upon the ballot. So that when the people come to the caucus, they cannot have their choice and nominate whom they want to, but they are limited to two or three candidates, whose names appear upon the ballot and very often they are not favorable to either one

of the candidates, whose names appear there, but there is nothing for them to do, but to vote for them; there is absolutely no choice on behalf of the people of the men who shall serve them in responsible positions."

Mr. Adams also contended that representative citizens were frequently nominated after deliberation in the convention who were not candidates earlier and could not be induced to enter into a personal contest for a nomination at a primary election.

One of the most important and best informed witnesses before the commission was Hon. William F. Garcelon, of the city of Newton, a suburb of Boston, a Republican in politics and the chairman of the Committee on Elections. Mr. Garcelon also presided at the luncheon at the Massachusetts Club and spoke briefly there upon the subject. The city of Newton is strongly Republican, and as a result of his observation he stated that it was his opinion that the majority party had grown stronger and the minority party weaker under the operation of the Joint Caucus Act, coupled with direct nominations for Representatives (Assemblymen), Senators, Congressmen, and municipal officers; that the minority party paid very little attention to the primaries and in one ward where a hundred Democrats were enrolled, the largest number of votes cast was fourteen at any primary, and upon one occasion only three votes were cast, and that even in the case of contest in the majority party, 1,200 out of 5,900 enrolled voters only participated upon one occasion and upon another, 300 out of 6,000, and the expense of conducting the primary varied from one to ten dollars a vote. He asserted that so far as nominees were concerned, good men could be nominated under either system, provided the people themselves took any interest in political affairs, but the interest of the masses was so slight that ordinarily more abuses were committed under the direct primary plan than under the representative system, and that better results under such circumstances were obtained by conventions; that the contests for nomination frequently become a campaign of personality rather than of principle; that many times men were asked by the caucus of citizens to become candidates and who accepted nominations from conventions, who would not enter into a contest under the direct system; that he did not believe that the operation of the system tended in any respect to uplift the

body politic, for the reason that political activity on primary day was largely due to personal solicitation of candidates and the candidates were not bound by any allegiance to a group of citizens or upon party principles, but simply stood by their individual declarations.

Mr. Garcelon, however, thought that good results might come under such a system in compact districts where a candidate for office in the course of a few days might see all the voters and get acquainted with them, or where they were likely to know him, but if the district was large, or the office was territorially large, it would cost a great deal of money and take a great deal of time to go over the district and see the voters and in such case he believed the convention system was preferable. That better results are obtained and better nominations secured when made by the nominating caucus or convention in any large organization. Mr. Garcelon thought, however, that they had not experimented long enough with the direct nomination plan to be certain that it was the plan to adopt for a whole commonwealth, or whole city or for large districts, and that " in making any reform in election methods we should go very slowly."

Mr. Garcelon said that it was difficult to determine whether the operation of the one system or the other selected better candidates, that in some cases under the direct system, the smooth man with money and a willingness to spend it by making an extensive campaign and mixing with the people might secure the nomination which, under the convention system he could not get; that the general results were about the same (page 119). That most of the Democratic representatives in the House voted for direct nominations, although some of them told Mr. Garcelon quietly that they were voting so because they felt they must; that they did not believe in it being a good thing, simply felt the pressure of the public pulse from back home. Mr. Garcelon doubted if the Corrupt Practices Act was or could be enforced. That a common method of evasion was to appoint some relative or friend as a committee or agent during the primary contest and let such person spend the money; that only a small portion of the candidates ever filed any returns as to their expenses and the matter was not followed up and no actions taken with reference thereto; that at the

last election, out of 1,029 public officials elected, there were only 372 made returns.

The direct nomination system has not been extended in the State of Massachusetts and several cities that had adopted the Joint Caucus Act have revoked it.

Mr. Garcelon expressed himself very freely as to the provisions of the proposed legislation in New York State and condemned the proposed committee plan as being too far removed from the people; that in that respect, such legislation would not be in line with direct nominations. The expenses of candidates is, in the opinion of Mr. Garcelon, very much increased by the direct nomination system.

Reference has already been made to Nathan Matthews, chairman of the Finance Commission, who made the report quoted above. Mr. Matthews also appeared before the Committee and explained the work of the commission and its reasons for the report in abolishing the direct nomination system for city officers and providing for the alternative referendum before mentioned.

Some form of direct nominations had been in use in the city for eight or nine years and had proven unsatisfactory, and as Mr. Matthews says, "The character of the nominations had steadily deteriorated and the nominees had ceased to be representative men in either of the parties" (page 204). He added that the system "has been destructive of party organization and party representation as well; ever since the system was introduced in this city for city offices and municipal offices, there has been a complete disruption of the party and of party principles, and an absolute disintegration of party organization" (page 205).

He added further: "It has very distinctly had the same effect upon the men elected from Boston to the State Legislature, and it works this way, if I may explain for a moment: there being no convention, there is no body of men to declare the principles of the party and there is nobody to whom the nominee is responsible, and the party as a whole cannot be held responsible, because the nominations go to individuals calling themselves Democrats or Republicans as the case may be, who go around and get their own nomination at the primaries by various more or less underhand methods, and when nominated and when elected, they recognize no responsi-

bility to them. They cannot be held responsible because they do not get the nominations from a party organization; they get it from the voters themselves at the polls, at the primaries. So that the logical and inevitable result of the practice is the destruction of not only the party machine, whatever that may be worth, but of all idea of party discipline, party responsibility, and party principles. There isn't anything of it left after this system has been in operation for several years. If you are going to help the party government at all, you cannot get it by means of direct party primary nominations. You get simply government of individuals and factions calling themselves one thing or the other as the case may be. But you get no true party action or party responsibility, or party discipline in any way. That is the way it is intended to work by most of the gentlemen in favor of it." * * * "The men able to fill state and national offices want to see real government and that you cannot get by any such system as this; it is a negation of party government. There is no opportunity for any campaign of principle because there isn't anybody to declare the principles and there is no convention. We used to have, even in municipal politics in Boston, a party platform, but you cannot have them to-day because there isn't any convention to declare them. It is the same way in the Senatorial districts and in the Representative districts. One man goes to the Legislature or the city council and acts as he pleases; there isn't any party to hold responsible; he is not responsible to any party but himself and no party is responsible to the public at large for his vote" (page 208). * * * "The nomination, the caucus and the primaries are confined to men, who are not simply ordinarily receptive of political honors, but to men who want them so much that they will put their whole time *in* and their money *out* to get them, and then having made up their minds to secure the nominations in that way, they go to work at it by any sort of private, secret, surreptitious, underhand method of action" * * * "The contest has degenerated over and over again in this State into a mere exchange of personalities. And thus these conditions and the expense involved and the character of the nominations and campaign that is invited, all tend to discourage the nomination of real representative men in either party. The result has been a steady deterioration in the character of the nominees on both sides; so much so

that at the present time, they are unrepresentative of their constituency" (page 209). * * * "The poor man has no chance at all; he is shut out to start with; and so is the representative business man and the professional man. The expense is double, practically, on the face of it; two elections instead of one, and I suspect that in practice, it is considerably more than that."

Mr. Matthews strongly advocated the method of selection of the school board by convention. He expressed the belief that the direct system is destructive of the majority as well as the minority party organization. "It has hurt the Democratic party more than it has the Republican party in Massachusetts, and in Boston, but it has hurt both parties; it has now put the Democratic party into a condition of disruption, and it will have the same effect on the Republican party, if it is continued" (page 215). He said that at the time the direct nomination proposition was up in the Legislature, he went to the committee, to his Democratic friends and told them what, in his opinion, would happen to the Democratic party if the direct system of party nomination was adopted, but it had no effect at that time, but his friends, who were in the Senate then, have since seen their mistake and changed their minds. That during the last four months of 1908, he talked with numerous people as to whether they would not rather go back to the delegate and convention system than to continue with the present direct system, and that he did not find a single man in either party in the city of Boston, who had a word to say in favor of the direct primary system. The witness added that he had a very strong belief upon the question as a citizen and regarded this plan of direct party primaries as nothing but a stepping stone in the socialistic propaganda; that Socialist papers put at the head of four or five things which they want, "Direct Nominations." "The next step is the Referendum; the next the Initiative; and the ultimate goal is Direct Legislation, and that means the abolition of representative institutions in this country. The people who advocate this system are in large part men who want to see representative democracy abolished, and some system from Australia, Switzerland or ancient Greece of a direct democracy installed in its place. The whole system, with all its corrolaries, I regard as unrepresentative and as un-democratic and as absolutely un-American."

He thought that the abuses of party conventions had been overestimated and that these could be corrected and active corrective measures should be taken to correct the convention system, rather than to make the experiment of direct nominations. "The party caucus, the party convention, was born in this country. It does not exist to-day in any country in Europe. In Europe the party candidates are nominated as they used to be in this country before the days of Madison, by committees, self chosen, self perpetuating committees" (page 220).

"About 1820, you invented a system and that is the system of the delegate convention, which of course necessitated the American caucus; American it is, absolutely and essentially. And now this system, born somewhere, born in foreign lands, under alien institutions, has been imported into this country unwittingly and unconsciously favored by a great many persons, who do not really know what it means, and I think it is bad and it is gradually disrupting our political foundation; and the final clinching argument against the plan is that it cannot be worked in practice. In other words, the system is bad in theory and it is vicious to the last degree in practice."

Hon. John A. Sullivan, the chairman of the new Finance Commission of the city of Boston, and a member of the Finance Commission which reported against direct nominations and in favor of the new charter, a lawyer, and affiliated with the Democratic party, appointed by the Republican Governor Draper to his present position, formerly a member of the Massachusetts Senate and for four years representing the Boston district in Congress, gave to the Committee valuable results of his experience and observation as a member of the Finance Commission, in investigating election and other methods in the city of Boston. Mr. Sullivan was a member of the Massachusetts Senate at the time the Primary Election Law was established for the city of Boston, and was an earnest advocate of the new system. His experience has caused him to change his views and he expressed the belief that the direct system is a bad system and one that ought to be abolished in the State wherever it exists. He does not agree with Mr. Matthews that the primary system is bad in theory, but thinks it is sound in theory, because it is predicated upon the notion that

all men are free and equal and that our voters should have equal rights in the nomination and election of candidates; that the theory is perfectly sound, but it has worked badly in practice. That direct nomination has worked badly in practice because the theory is founded on false premises, that is "that all men are of equal intelligence and of equal devotion to the public good. I think they are not" (page 224). He gave it as his opinion that there has been a general deterioration of the character of the candidates for public office in the city of Boston and elsewhere since the establishment of the Primary Election Law; that the men "who have been nominated by that system, on the whole, taking the average of them, are — have shown themselves to be inferior in tone and ability and devotion to the public welfare, to the men who are nominated under the convention system; the cause is easily discovered; the convention system is a part of the party system of government, and the party system of government assumes responsible leadership. You have leadership under the convention system at times that will be responsible, at other times it will fall from that standard; on the whole you will have more responsible leadership under the convention system than under the primary system; there has been no way found to discipline a public officer, who has been nominated in the primaries, who may offend the responsible leaders of his own party, but he can make his appeal directly to the people, and if he is a man of good personal gifts, or of large fortune, he can get support in numbers, which he would lack in the intelligence of his supporters, and secure a renomination, although he has proved himself in fact a bad public servant."

Mr. Sullivan contended that money counted for more under the direct system and that the amount required to nominate a candidate for high office in the city of Boston is simply astounding; that the cost of the campaign of one candidate for the office of mayor in the city of Boston was at least $100,000 under the direct nomination system; the salary of mayor is $10,000 a year. Mr. Sullivan has been a successful candidate under both systems and avers that in any case the convention system at its worst is better than the primary system at its worst, and the convention system at its best is better than the primary system at its best; the average results of the convention system is far superior to the average

results of the primary system. He said that he looked at conditions under both sides from the standpoint both as a politician and as a citizen; that he regarded the profession of politics as noble a profession as there is; that unfortunately the word has received a sinister interpretation. All nominations for parliament in England are made by committees of the two parties; the voters have absolutely no voice whatever in the selection of their candidates, and he compared the personnel and work of the English parliament with that of the American Congress.

Hon. Thorndyke Spaulding, of Cambridge, a graduate of Harvard College and of Harvard Law School, a Republican member of the Massachusetts Senate from the Cambridge district, appeared before the Committee. Mr. Spaulding had been in close touch with the political conditions for upwards of fifteen years as secretary and chairman of the Cambridge City Committee and as secretary and assistant secretary of the Republican State Committee and as a member of the Committee on Election Laws at the last session of the Legislature. He was also chairman of the Judiciary Committee. Mr. Spaulding believed that direct nominations diminished the interest of the educated, public spirited men in political affairs rather than increased it. By the taking away of the conventions, where men interested in public affairs get together and touch elbows with other men from other wards or other cities and other districts. According to his observation, where it has been tried in Massachusetts, it has been a distinct failure. The Cambridge district does not nominate by the direct method and a few years ago an effort was made to include this district in the Springfield, Worcester and Somerville districts, which elected by the direct nomination system, and it was the almost universal opinion among both parties that they did not wish to be included in the bill, which put them into a direct primary district, and it was struck out in the House.

He said that where you have a direct nomination system, the man with a large sum of money, or with a very easy working mouth and brain, can get in and make a great headway oftentimes, where in a district that is represented by men in the convention, he could not succeed.

The Committee obtained as a part of its record, sample primary

ballots, election ballots, the Election Commissioners' reports and other documents to illustrate the method of conducting the primary elections in the city of Boston and elsewhere in the State, with the tabulated results of the primary and State elections, all of which are referred to and made a part of this report.

Observations on the Massachusetts System.

1. With the exception of the city of Boston, nominating systems in the State of Massachusetts are somewhat after the manner of "local option," except that direct nominations can be had only by special legislative enactment.

2. There is no State-wide primary; the only candidates for public office nominated by the direct system are three Congressmen out of fourteen; one Governor's Councillor out of eight; thirteen out of forty State Senators; one hundred one Representatives (Assemblymen) out of one hundred seventy-three; and municipal officers in certain cities by special enactment. County and State officers are nominated by the convention and municipal officers in the city of Boston by petition, without primary or caucus. The Councillor district, Congressional districts, and most of the Senate and Assembly or representative districts, having direct nominations, are within what is known as the Metropolitan district, Boston and vicinity.

3. Public sentiment does not demand, but prevents the extension of the system and the abolition of the county and State convention.

4. The direct system has proven unsatisfactory, after a trial of about nine years, for the nomination of municipal officers in the city of Boston, for the following reasons:

(a) The character and personnel of candidates has deteriorated.

(b) The expense to candidates has largely increased, and the poor man is practically prevented from conducting a personal campaign.

(c) The primary contests for nomination have become campaigns of personalities rather than principles.

(d) Party organization and party responsibility has decreased.

(e) The majority party only participates to any great extent in the primary, there being usually no contest in the minority party, and where the joint caucus is not had, members of the minority party participate in the majority party primaries to a considerable extent, so that frequently the primary vote in such party is larger than the vote cast at the election.

In the opinion of the closest observers of political conditions, including such men as Charles W. Eliot, former president of Harvard University, President Lowell of Harvard University, and many other independent, patriotic citizens, uninfluenced by personal political considerations, the direct system has worked very badly wherever tried in this State, except in small compact districts. The views expressed by these men compel the attention and careful consideration of the committee, and the evidence given by them in detail, as shown by the record, should be given the most careful consideration.

PENNSYLVANIA.

The Law.

As the various caucus acts of Massachusetts are models of complexity and lack of uniformity, the uniform Primaries Act of Pennsylvania may be regarded as a model of simplicity. It was passed at a special session of the Legislature and became a law February 17, 1906. At the same time, the Personal Registration Act, requiring personal registration in cities of the first and second class, was passed, so that the operation of the Registration Law and of the Primary Law were frequently confused by witnesses, who testified upon the subject.

Registration of voters is in charge of a Board of Registration Commissioners, appointed by the Governor, not more than two of whom shall be of the same political faith, and they in turn appoint registrars for the various election districts of the city, whose appointment is governed by substantially the same rules.

Registration is not conducted by the election officers and this method of appointing Commissioners of Registration and Boards of Registrars has proven quite satisfactory to all parties.

Election officers, or inspectors, are supervised by the County Commissioners, who in some respects have duties similar to our Boards of Supervisors, but all election officers are nominated at the primaries and elected in the usual way. There are nearly 1,200 election districts in the city of Philadelphia and substantially 3,600 election officers. The success of the appointive system, so far as registrars is concerned, has been so marked that there is quite a universal demand for the abolition of elective inspectors and a substitution of an appointive system similar to that of the registrars, and at the last election the Constitutional Amendment authorizing the Legislature to enact such law was submitted to popular vote.

Every applicant for registration must be assessed and pay either a tax upon property or a poll tax of fifty cents once in two years, and must prove to the Board of Registrars that he has paid such tax. The Constitution of the State prohibits the enactment of laws having special or local application in the conduct of primaries and

elections; hence the Primary Act applies to all parts of the State and requires that all municipal officers, county officers, members of the Legislature and members of Congress shall be nominated at the primary by direct vote; also that delegates to State conventions for the nomination of State officers and party committeemen shall be elected at the primary. Two primaries are held each year known as the winter and spring primary, the former for the nomination of local and municipal officers and the latter for the nomination of members of Congress, delegates to State conventions and the more important county officers. It is also provided that delegates to State and national conventions, except delegates at large to national conventions, which shall be elected at the State convention, shall be elected at the spring primary. The act does not apply to the nomination of candidates for presidential electors or to the nomination of candidates to be voted for at special elections to fill vacancies, but party rules may provide for the nomination of presidential electors at primaries. The primaries of all parties are held at the same time and place and the primaries conducted at public expense, which is paid by the county treasurer and he is reimbursed by the State Treasurer, so that the State Treasurer ultimately pays the entire expense of conducting primaries for the nomination of all candidates for office that are nominated at the primaries and for the election of all delegates to state and national conventions, as well as for all municipal officers. Town and borough officers may be nominated and elected by the method in vogue before the act took effect. A separate ballot is provided for each party and the names of the candidates for nomination are entered in separate "blocks" and alphabetically arranged under the designation of the office. These nominations are made upon petition, 200 names being required for member of Congress, judges of the courts, and state senator, fifty signatures being required for the State House of Representatives, and for officers to be voted for by the entire county, and ten signatures being required for the nomination for all other offices and for delegates to state and national conventions and for party officers. These petitions are required to be filed at a designated time before the primary. There is no party enrollment, and every qualified voter is entitled to receive the party ballot, which he calls for unless

challenged, and if challenged, he is required to swear that at the last preceding gneral election he voted for a majority of the candidates upon the ticket for which he calls; presidential electors are counted as individuals, and this enables a large number of persons who voted the national Republican or Democratic ticket to vote the same ticket at the primaries of the year following, although they may not ordinarily vote such ticket for municipal or State officers. The plurality vote nominates. There are five registration days each year. At the time of registration every applicant, who can write, is required to sign his name, and if challenged at the primary or election, he may be again required to sign his name, and a comparison made by the election officers, from whose decision there is no appeal that could be effective for the primary or election day.

It will thus be seen that every voter, if he performs his full duty, has seven distinct acts to perform each year, as follows:

1. Ascertain from the record that he has been assessed for a tax.

2. Go to the proper officer and pay the tax.

3. Appear personally before the board of registration and register.

4. Attend the winter primary in January.

5. Attend the spring primary in June, or in April in presidential years.

6. Vote at the spring election in February.

7. Vote at the general election in November.

Political committees find that their labors are constant and that citizens are liable to neglect some of those duties, unless they are constantly reminded, and their duties thus become very onerous. The frequency of primaries and elections, taken with the registration provisions, has created an almost universal demand for the abolition of the February election, so as to do away with one primary and one election and at least one or two registration days. A constitutional amendment was submitted at the last election for that purpose and carried by the vote of the people at the November

election, 1909, and will take effect in the year 1911, so that commencing with 1911 the officers who were formerly elected at the spring election will be voted for in November of the odd years, and State officers, members of Congress, etc., will be voted for in the even years. This will materially relieve both the voter and the political committees from the burden of so many primaries, elections, registration days, etc.

The Constitution provides for minority representation upon the board of county commissioners, and the present board in Philadelphia is composed of two Republicans and one member of the so-called "William Penn" party, a reform organization for municipal elections only, which cast more votes than the Democratic party in the city.

The first primary under this act was held in January, 1907, six primaries having been conducted under it.

Prior to the adoption of the Uniform Primaries Act the method of nomination of candidates for office was the usual delegate and convention system without any statutory control, but such caucuses and conventions were conducted according to party rule; in one or two counties, particularly Crawford and Beaver counties, the system of Direct Nominations had prevailed for some years. The primary ballots are all of the same color, but have the party name printed upon the outside and samples of these ballots are submitted with this report. The Primary Law was adopted largely because of the agitation of the reform elements in the city of Philadelphia, but when finally passed, was a compromise act acceptable to all parties. There is no special agitation for the extension of the system to include State officers and the abolition of the State convention. If a voter takes the required oath upon challenge at the primary, and should see fit to make an untruthful statement, it would be impossible to convict him of perjury for two reasons: First, he is entitled to protection because of the law relating to the secret ballot, and as he is the only person who knows how he voted, he could not be compelled to answer a question which might tend to incriminate him, and no convictions for a violation of this statute have ever been had.

The Operation and Results of the Primary Law in Philadelphia.

The City Club, which is the nucleus of the Reform Association in Philadelphia, assisted the committee materially and took a great interest in the investigation.

The leaders of the Republican and Democratic organizations declined to appear before the committee and practically gave us no assistance, apparently not wishing to go on record on one side or the other of the controversy.

Mr. J. Henry Scattergood, one of the four members of the commissioners of registration, and Mr. Frank J. Gorman, the Philadelphia member of the county commissioners, gave to the committee, careful and detailed statements of the Registration Law and the Primary Law, and Mr. Gorman, while generally commending the Primary Law, was particularly frank and honest in his statement of weak features which had developed under the operation of the act during the last three years, and from his testimony the following facts appeared: The Republican organization of the city of Philadelphia is so largely in a majority that in all of the six primary elections they have succeeded in nominating everyone of the organization candidates, and not only this, they have in most instances dictated the nomination of the candidates upon the reform ticket, known as the "City Party," the "Philadelphia Party," and "William Penn Party," successively, and also upon the Democratic ticket.

When organization men have been nominated upon the reform party ticket, the reformers have pre-empted a new name and by getting a petition signed by two per cent of the largest vote cast for any candidate at the last preceding election, have thus been able to present their own candidate at the election. This is the explanation of change of name each year of the reform party since the passage of the Uniform Primaries Act. In many instances for minor officers, the organization has not filed the petition of any candidate against an independent candidate or candidates, but by concerted action on the primary day, without any apparent contest, has written in the name of its candidate and the independent candidate has thus been taken unawares and defeated.

At the June primary, 1909, there was a spirited contest for the office of District Attorney, Samuel P. Rotan being the organization candidate, and D. Clarence Gibboney being the candidate of the Reform party. Mr. Gibboney received the nomination of the William Penn party, and, although a Republican in national politics, he received the nomination of the Democratic party, contrary to the wishes of the Democratic organization, and came within 4,500 votes of receiving the nomination upon the Republican ticket. At the election which followed, however, the Democratic organization apparently did not stand by Mr. Gibboney, and he was defeated by a majority of something like 50,000. If the Reform party had acted within the ranks of the Republican party instead of having an independent column and instead of endeavoring to nominate their man upon a Democratic ticket, they undoubtedly would have succeeded in nominating their candidate on the Republican ticket.

There seems to be no method by which this practice can be stopped and the result is very destructive to the Reform party and the Democratic minority party.

The system has proven an absolute failure so far as the elimination of the boss and machine are concerned, and the Republican organization is perfectly satisfied, from their point of view as politicians, with the working of the system.

So far as the selection of candidates is concerned, there has been no marked improvement since the introduction of this system. An aroused public sentiment will compel the selection of better candidates under either system, and sometimes bad candidates have been withdrawn after nomination. The Republican organization have succeeded in every instance; it appears that the same officers have been nominated by the primary system that would have been nominated under the convention system.

In minor offices, however, selection of reputable candidates has been difficult. In very many instances, election officers, who have been tried and convicted for offences against the Election Law have been renominated, under this system, and re-elected.

Mr. Gorman stated that he had collected statistics of thirty election officials who had been convicted of election crimes and imprisoned, and of that number five or six, and possibly ten, had

their names printed upon the primary ballot and were nominated and elected in 1908. (Page 590.)

For the unexpired term of a school director the name of a woman of ill-repute was written in as a candidate for school director on the primary ticket of the Reform City party and was nominated. The fact was used to the detriment of the Reform party and was quite disastrous, for she became the regular nominee of that party and her name was printed upon the official ballot. There seems to be no way to prevent such occurrences. (Page 571.)

Although the law requires that the individual voter shall pay his tax, the money is frequently furnished by political organizations and this leads to abuse, scandal, and serves no useful purpose, according to the statement of Mr. Gorman.

The ease with which nomination papers are obtained frequently results in a mutiplicity of candidates. For minor offices ten signatures only are required, and there is no provision of law requiring these signatures to be acknowledged or sworn to, so that frequently names are put upon the official ballot as a joke. (Page 620.) As many as thirty candidates for magistrate where only two were to be nominated, have appeared upon a single primary ticket. (Pages 554, 571.)

It is a common occurrence for members of one party to vote the primary ballot of another, and in a single ward at a recent primary 453 voted who were not qualified. (Pages 561-562.)

Mr. Gorman, who is an experienced commissioner, does not know of any amendment which can be made that will prevent this, and strongly objects to the system of enrollment in force in New York State, believing that it will prevent independent action that is frequently desirable to correct evils which may have grown up under the fostering care of a very strong political organization. (Pages 563, 566.)

At the first primary held after the law went into effect about sixty per cent of the registered vote of Philadelphia participated, there being an exceedingly hot contest over some of the officers. At the next primary about thirty per cent voted and at the next about forty per cent, the number participating depending entirely upon whether or not there is a strong contest over any particular candidate.

Mr. Gorman thought that the advantage of preferential position, where the names were put on in alphabetical order, was quite marked, but could not suggest any way to correct it. Under the convention system there was no expense to city or state, each party being controlled by its own rules and paying its own expenses in conducting caucuses and conventions. Under the Uniform Primaries Act the entire expense is ultimately borne by the State, and this notwithstanding a large portion of the expense is incurred by reason of the nomination of municipal officers. All bills are paid in the first instance by the County Treasurer and upon his certificate the State Auditor allows the bills and they are paid by the State Treasurer. The June primary of 1909 in Philadelphia cost $97,000 and owing to the contest over the office of district attorney there were 153,000 votes cast. It has cost the public practically $200,000 a year in the city of Philadelphia alone to conduct the primaries under the Uniform Act of 1906. (Pages 576-577.)

A peculiar condition has arisen under the provision requiring that party committees shall be elected at the primary. The court of common pleas has decided that a party is the sole judge of the qualifications of its own membership, and in several cases where a reform candidate or some objectionable candiate has been elected as the committeeman of another party, the party organization has refused to allow such member to participate in its deliberations, and the court has sustained such refusal. The result of this decision, which has not been questioned, is to make the election of party committeemen at the primaries a farce, to which nobody pays any particular attention, and it is practically optional whether the party elects its party committeemen or appoints them. (Page 601.)

Mr. Gorman is but twenty-five years of age and holds a responsible position as county commissioner with a salary of $5,000 a year, having been nominated by petition after his defeat at the primary. He is well versed in all matters relating to the primary election laws, but had little experience under the delegates convention system. He believes that notwithstanding the weak features of the Primary Law this method of nominating municipal and county officers, congressmen, State senators and representa-

tives is preferable to the former convention system, and thinks that some of the evils which have arisen in the operation of the system will be eliminated with longer experience.

Mr. Howard A. Chase, a former county commissioner, affiliated with the Republican organization at Philadelphia, added some interesting statements from his experience and observation of the primary system in Philadelphia.

He stated that it would be little short of a miracle for a candidate who was not supported by one of the organizations to be nominated; in fact, he knew of no such instance; and an independent candidate for mayor, for example, could not make the canvas without the expenditure of a large amount of money. (Page 611.) He said that the Republican organization had no objection to the Uniform Primaries Act; that they had always succeeded under it, and had nominated the same men to office who would have been nominated if suggested by the organization leaders. Prior to the Primary Law it was not uncommon for fusion candidates to procure nominations and to be elected, although the Republican majority in the city was frequently 100,000. So far as its effect upon nominees and voters is concerned, he could not see any advantage to the body politic in the system, that it had not resulted in any respect in the overthrow of the boss or machine in the city or state. (Page 614.) He believed, however, that uniform primaries had come to stay, and advocated a combination of the two systems by which candidates for congress, State senators and State officers could be nominated by convention and in country counties the so-called Crawford county system, which has its advantages, might be continued. (Page 615.)

As ballots have to be printed for each organized party double the total number of votes cast for any candidate of said party within the election district at the last general election, and as under the law any organized party can demand as many additional ballots as they desire, the cost of printing is enormous and the number of official ballots printed for the winter primary of 1909 practically amounted to one for every man, woman and child in the city, or more than a million and a quarter. The expense of conducting the primaries, which has been stated to be about

$100,000 for each primary or $200,000 a year for both primaries in the city, is based upon the pay of the primary officers at one-half the rates received for the general election, and there is great complaint about this, as in many country districts the officers receive for the primary only about one dollar per day.

There is no limitation upon the number of nomination papers which a voter may sign, and the view is taken that it is anybody's privilege to go before the people as a candidate, and that the signature of the petitioner does not commit him to the support of the candidate at the primary. The ease with which new parties are formed by procuring only two per cent of the highest vote at the last election is deprecated by Mr. Chase, who thinks that the percentage should be as high as ten, so as to avoid so many party columns upon the election ballot, and the printing of so many separate primary ballots. At the last primary there were seven or more such ballots.

There is also much contention over the authority of the county commissioners to open the ballot boxes and recount the votes, as to whether their office is purely ministerial or judicial, and if upon opening the ballot boxes and finding that fraud has been committed they can make a new return and issue certificates to the successful candidate. At the time of our hearing in Philadelphia there were 380 cases out of 1,162 districts in the city of Philadelphia, in which frauds were charged at the primaries and the effort was being made to have the primary boxes opened and a recount made.

During Mr. Chase's term as county commissioner he sought to have the law amended so as to eliminate some of its defects, and in this connection had extensive correspondence with county commissioners and county commissioners' clerks in different parts of the State. Portions of some of the replies will appear at pages 630 and 631. One from Waynesboro, Green County, Pennsylvania (page 630) says, after reciting some suggestions for improvement in the law: "These are just a few suggestions, but for God's sake and humanity, improve over the former law." Another from Emporium, Cameron County, Pennsylvania, says: "In regard to the new primary election bill would say: If there

is not some change in the pay for the board it will soon be impossible to get any one to serve."

One from Norristown, Montgomery County, Pennsylvania, a county adjoining Philadelphia, under date of August 6, 1908, says, among other things: "As for myself, personally, I think the best change in the primary election would be to wipe it out entirely, as there seems to be very little virtue in it."

As no candidate had ever been successful in securing the nomination on the Republican ticket, unless he was backed by the Republican organization, Mr. Chase did not think that the character and standing of the men who had been nominated to legislative offices had been materially improved under the Direct Primary Act. (Page 633.)

Mr. John H. Fow, a lawyer of thirty-one years' standing and former attorney for the county commissioners, having supervision of primaries and elections, and also a member of the legislature for twenty years, gave the committee some interesting facts.

Mr. Fow is a Democrat and has made the study of election laws a hobby since 1889. (Page 635.) While in the Legislature he was opposed to the adoption of the Primary Law and is now opposed to it for the reasons which he states (page 636): That in this state before the adoption of this system each party helped each other to make nominations. Since the adoption of the system each party helps themselves to make nominations for other parties. He said that since the adoption of the system the Democratic party has never elected anybody, but before the system, in many instances, public sentiment was aroused to such a degree that the Democratic party, with the aid of the Independents, was able to elect some of their candidates. That in caucuses where the Republican party succeeded in putting Republicans upon the Democratic ticket Democrats would not support their own candidates, and this was very detrimental to party discipline. (Page 638.)

Party organizations back of a candidate assumes some responsibility for the character of the candidate, and if a bad nomination is made public opinion will defeat him. He called attention to the election of Democratic Governor Pattison twice. At the time of the enactment of the law the newspapers throughout the city and State were demanding the Uniform Primary and this had considerable to do with public sentiment. (Page 642.)

Another feature of the law condemned by Mr. Fow was the fact that it is necessary for a voter to ask for the ticket of a particular party when he goes to the primary. Many business men will not do this and many are deterred from asking for an Independent party ticket because of their fear of what the organization may do to them; he said that many had even advocated a blanket ballot in order to have it secret, but this, of course, was open to the objection that a voter could support any ticket he pleased without reference to party. He claimed that many men would not go to the primary because they had to say publicly, "Give me a Republican ballot, give me a Democratic ballot, or a Willian Penn ballot," and if they did not vote some other person would vote for them (pages 642, 643), although the Registration Law had reduced that to a minimum.

Another feature, which provides for the appointment of assessors who are required to get lists of names which are registered by proxy, was condemned. He said that they had been known to go to a graveyard and write down forty or fifty names they found on tombstones and one assessor was tried in court because he had on his assessment list "A. Canary," having seen one hanging in a barber shop window.

At the last primary the Democratic party was not permitted to name its own candidate for district attorney, but Mr. Gibboney, a Republican, was the successful candidate on the Democratic primary ticket, and two reputable lawyers who contended for the honor, were defeated. He also claimed that the successful nominees were selected long in advance by party organizations and were always nominated. (Page 646.)

Mr. Franklin S. Edmunds, a member of the school board of the city, took an opposite view, and claimed that in cases where Republicans were nominated upon Democratic tickets it was by the votes of so-called independent Democrats. Mr. Edmunds was connected with the Independent party of Philadelphia, and was a candidate for the nomination of receiver of taxes at the first primary in January, 1907, receiving the nomination of the City party and the Democratic party, although he had never been a Democrat. (Page 648.)

Under whatever system a nomination is made, good or bad

results depend upon the interest or lack of interest the people take in the situation. Mr. Edmunds believed that when the people are aroused the Direct Nomination system gives them a better chance to show their power and to bring about results which have not been given them in the delegate and convention system. However, prior to the adoption of this system, on several occasions, the people have been aroused and defeated the dominant party, but have not done so since the enactment of the Uniform Primaries Act. The reason for this, Mr. Edmunds thought, was because the people had not been aroused since January, 1907, except during the district attorney contest in the last six months. (Page 656.)

An unknown man, running independently for an important office like mayor and not supported by any political organization, would have little chance of nomination, and, if he made an aggressive campaign, would be required to spend a great deal of money. (Page 663.)

In cases where there are many candidates for a particular office there is considerable advantage in having one's name at the head of the group, as shown by an examination of the ballots marked by the voters at the primary.

He expressed a strong preference for a joint caucus or primary of all parties, so that it might be conducted by the regular election officers, as is done in Pennsylvania. There is no great agitation to extend the system to the nomination of State officers, but Mr. Edmunds thought there should be a larger number of signers to a nomination paper as many candidates were nominated purely as a jest, or for the purpose of having their names printed upon the primary ballot, all of which costs money and confuses the voters. (Page 668.)

Mr. Edmunds, while believing in national parties and organization along national lines, thought that party organization in State and municipality was of little use.

Another interesting witness was Hon. Daniel J. Shern, a Republican representative in the Legislature, having served in that capacity since 1903. Mr. Shern lives in the central part of Philadelphia, in a ward where there are a great many colored voters, they being a majority of the population of his district. He was a member of the Legislature at the time of the enactment

of the Uniform Primaries Act and a strong advocate of the system, and voted for it. He says that it was advocated by nearly the united press of Pennsylvania on the ground that the system of conventions was controlled by bosses representing the different party organizations, and that the delegate system was corrupt, and that Uniform Primaries or a system of Direct Primaries would remedy these defects in the delegate system, the theory being that every man was born equal and had a perfect right to go before his fellows for elective office; that there would be a great many individuals who would take advantage of the system of nomination. (Page 681.) But, he added, "I am sorry to say that it has not worked out in practice."

He further says: "I was a firm believer in the Direct Uniform Primary system at the time the bill was passed, because I felt that it would be the means of stimulating political interest among young men, particularly in the respective precincts or divisions of a ward, and in the wards there would be organizations formed by young men, who would take an active part in politics, and go before their respective electors for office. But since that time that theory, as I said before, has not worked out practically. It seems that an organization — either organization — the Independent or Reform organization, the Democratic organization, the Republican organization, of the ward and the city, agree on certain men, these men are usually nominated. We had one primary where the Republican organization agreed on certain men and nobody filed any nomination papers against them, so that we had a mixed experience of a Uniform Primary election with nobody to vote for except certain men who were agreed upon by the whole organization. The same thing applied to the Reform party. There was a magistrate to be chosen among the Independents, and there were about twenty or twenty-five individuals who desired to receive that nomination. They filed their papers, a good number of them, and subsequently they withdrew, and it narrowed itself down to two or three men, and the man that the organization — the Independent organization — agreed upon, was, of course, nominated." * * * "So that the Uniform Primary system, to my mind, has not accomplished the results which in theory it was thought it would accomplish, and it has also been an immense expense to this city of Philadelphia and the State of Pennsyl-

vania." In this connection, it may be repeated that it cost the city of Philadelphia about $100,000 to conduct one primary in which there was practically no opposition to the organization candidates, and the fees of election officers are but one-half the rates allowed them at the election. (Page 682.)

Reference to specimen primary ballots filed with this report will disclose the fact that outside of the Republican party there is rarely any contest for a nomination, and yet ballots have to be printed and the formality of an election observed for the nomination of candidates by the City party, or Philadelphia party, or William Penn party, the Prohibition party, the Socialist party, and the Democratic party. It is true that at the last primary there was a contest for district attorney in the Democratic party, but it was not between Democrats, but between Gibboney, a Republican affiliated with the William Penn party, and two reputable Democratic lawyers, Ladner and Lank, one of whom would have, of course, been nominated if Gibboney's name had not been on the ticket.

At the same primary the only contest on the Republican ticket was for district attorney between Gibboney and Rotan, between two candidates for city treasurer and two for register of wills, and the organization candidate was successful in each instance.

Mr. Shern thought the system would work well in small country districts where the people were generally acquainted with each other; in a district containing a city and rural communities a candidate from a rural community would have no chance against the candidate from the city ordinarily. He cited the condition in Lancaster and said that the nominations there on the Republican ticket had been made for twenty years according to the dictation of the organization — the same since the adoption of the Primary Act as before. (Page 687). In regard to the *personnel* of the members of the Legislature, there had been no appreciable change — that just as able men were there before as since the adoption of the Primary Law. If, however, a so-called organization legislator should act contrary to the advice or suggestion of his leader or boss, and should consequently incur the displeasure of the organization to such an extent that they would oppose his renomination, Mr. Shern thought that the representative would have a better

chance of securing a nomination by an appeal directly to the people under such circumstances, but cited no instance where this had been done. (Page 690).

He took the position that he was in favor of the Uniform Primary Act because he believed the people wanted it, and not because it had accomplished any good (page 692). For the same reason, he said he favored the initiative, the referendum and the recall. As to the primary, he said: "If the people want it, let them have it, if they can stand the expense" (page 692).

Mr. Talcott Williams, an editorial writer upon one of the city dailies, a Republican on national lines, but allied with the Reform party, recited some of the evils of the convention system prior to the introduction of the uniform primary, and said that there were frequent charges of fraud and coercion at the caucuses. There were still fraud charges at the primaries, as evidenced by the proceedings then pending for the opening of some 380 primary ballot boxes in Philadelphia. He said that he thought that the Primary Law had not yet had sufficient trial to demonstrate its efficiency; that it had in no respect altered the control of politics, but thought it, in connection with the new election and registration law, had increased responsibility (pages 703, 706); that the law was not entirely satisfactory and a commission had been appointed for the purpose of codifying all the laws, including the Primary Law (page 708). The fact that there were two primaries in each year, and two elections, was burdensome to voters and to party committees, and he advocated the abolition of the winter primary and election, which, as has been stated, was accomplished at the election in November, 1909.

Operation and Results of the Primary Law in Harrisburg and Vicinity.

The Committee held a short session at the Capitol building in Harrisburg, July 28, 1909.

The Auditor General furnished the following figures showing the expense of primary elections for the years 1907 and 1908, the figures for 1909 not being then available:

Winter of 1907	$140,156 76
Spring of 1907	218,267 20
Winter of 1908	134,831 62
Spring of 1908	237,591 98
Total	$730,847 56

These figures cover only such part of the expense of holding primaries as are audited by the Auditor General's office, and it was a common complaint that the Auditor General refused to audit very many of the expenses paid by the county treasurers in the first instance, upon the claim that they were not authorized by law. At the 1909 session of the Legislature, a bill was passed increasing the pay of election officers for services at the primary to the same amount paid them for services at the election, but this law was vetoed by the Governor, upon the ground of lack of revenue. As before stated, the complaint is very general that the pay is inadequate, and in the near future it will undoubtedly be increased to the amount received by the same men while serving at elections, and this will double the expense to the State.

Mr. H. C. Oves, chairman of the Republican city committee in Harrisburg, stated that he thought the uniform primary was somewhat of an improvement over the delegate system, and that, if some of the weak points could be remedied, the system would be ideal, "if you could frame an ideal act." The main weak point in this primary is that it does not prevent the voters of one party assisting in the nomination of candidates of another party. He thought there might be objections to compelling a voter to declare his party affiliations at the time of registration, but, as

party chairman, he would like very much to have that done, as the voters, who then would register, the great majority of them, "would be the kind that can be easily induced to vote in any way you want them to" — that is, that the organization wants them to; that the better class of citizens would object to declaring their party affiliations. The operation of the system does not in any respect tend to destroy the organization of the dominant party, which is the party with the money and controls the primaries — not so easily as under the delegate system, but it simply requires the organization to spend more money and be a little more active, and also requires the individual to spend more money (page 788). Since the operation of the primary in Harrisburg, the organization candidates have always been nominated, as they were before, but with more difficulty and more expense; the morale of the candidates has not been improved. There has been no particular increase in the number of people who participate in the primaries for the reason that it is now much more difficult for a man to exercise his full franchise than formerly, and this is because of the registration feature, as well as the provisions of law requiring an assessment, two primaries and two elections.

The Republican organization still controls the county offices, and the individuals who have contested against the organization have not been successful under this system. The majority party in most of the primaries have been using the voters of the minority party to nominate their ticket, and this results to some extent in strengthening the majority party and weakening the minority party. (Page 792).

Sometimes there are a large number of candidates who file petitions, but "we reduce them by ways of our own to maybe two or three." There are more candidates now than there were under the delegate system, and sometimes reputable citizens file their petitions and stick it out to the finish, thinking that the people may change and overthrow the organization.

Harrisburg has a population of about 80,000 and one town in Dauphin county outside of Harrisburg contains about 20,000. The organization sometimes allows a nomination to be made outside in order to keep its supporters in good humor. Mr. Oves did not think it was impossible for an independent candidate

outside of the city or even in the city, to be nominated, but in the six primaries already held it has not happened. He would have to make a personal campaign and expend a very large amount of money. Mr. Oves did not advocate the increase to the number of signers to the petition for nomination, and thought that everything should be done to make it as easy as possible not only to vote, but to get out a large number of candidates of as good quality as possible. Sometimes undesirable men have easily secured the required number of signers on a petition solely for the purpose of being induced to retire. (Page 798.)

In regard to participation in the primaries, the percentage of voters attending depends entirely upon the contests and issues. There have been primaries in Harrisburg where the total number of Democratic votes polled were less than 500, and at the primary of June, 1909, the total of all parties was only about 1,500 out of about 12,000 votes cast at the last municipal election. (Page 800.) Mr. Oves thought that the people were better satisfied with the present system, although not an ideal system, than they were with the old delegate system, for although they were obtaining the same results they feel better satisfied, thinking that they have had some voice in party nominations.

Mr. William L. Loser, a Republican member of the common council of the city, and sometimes acting as an Independent, believed that the Uniform Primary Act has been decidedly satisfactory to the people, in that it had given the individual who wishes to be a candidate independently, the hope of being nominated. Mr. Loser was nominated as an Independent in a ward containing about 600 voters. He thought that to some extent it had corrected the evils that had grown up under the convention system so far as it applies to city and county officers, and that it is not so easy for the organization to control nominations now as formerly. In order to do so they must spend more money and be more active. So far as the individual is concerned he did not think that there was the necessity under this system for the expenditure of money on the part of the man who was not affiliated with or selected by the organization as there would be under the old plan, although he might have to make personal appeals to the voters throughout his district. He thought there

should be rigid legislation prohibiting members of one party from assisting in the nomination of candidates of another, but could not suggest remedial legislation that would be effective.

Upon the invitation of the Committee witnesses attended from the city of York, York County, a distance of twenty or thirty miles from Harrisburg. Among them was Samuel E. Lewis, postmaster of York and private secretary to the congressman of that district. Mr. Lewis has been quite active in politics in that locality for several years and has had unusual opportunities of observing the workings of the Uniform Primaries Act and of the delegate and convention system prior thereto, in a county in which there is a city of about 50,000 and considerable rural territory. He said that one of the conditions arising in such a county was that the centers of population control the nominations. York is a Democratic county but the city is about evenly divided, with normally a small Democratic majority. According to his observation the character of the candidates selected in that county under this system was below that of those selected under the old system. In one case a candidate got before the people who had been regarded as mentally unsound, and there being no especial interest in the primary his name appeared on the ballot and he received the nomination.

The organizaion, however, had controlled the nominations even better than before, and there is no wail going up from the camps of the organization against the law. (Page 814.) Sometimes there was a large number of candidates for the nomination. In one case some twenty or thirty for the office of county commissioner and one of the successful candidates received about 1,700 votes out of 8,700 and the other about 1,500. Mr. Lewis said that it was a good deal more expensive for the candidate under this system and that he did not see how a poor man could go into a contest for a nomination for county office. The Republicans, however, were in the minority and there were not many contests for nomination so that the organization candidates were usually unopposed, and because of this they were able to distribute the candidates throughout the district quite as well as under the former system. Reputable men, however, were more reluctant under this system to become candidates of the minority party where there

was any contest, not wishing to go through two strenuous campaigns. The present Congressman O'Pheney is a Republican elected in a Democratic district, first under the convention system when he knew nothing about the proposed nomination. He has represented the district for four terms. He would have declined to go upon a primary ticket and enter into a contest for the nomination. Under the former system there was a tentative agreement between York County and Adams County, that York should have the member of congress for four terms and Adams county for two terms — York having a population of about 150,000 and Adams of 35,000, but under the Primary Act it will be impossible for Adams County to get a representative because there are more Republican voters in the city of York than they have in the whole of Adams County. (Page 810.) Mr. Lewis said that the "heelers" or "leachers" who are always seeking to obtain money from candidates if possible, are heartily in favor of the Uniform Primaries Law, for the reason that when there is a great number of candidates for office they can get a few dollars from each one and in that way the sum total received is a great deal more than they could get under the old system; under that system they could get nothing at all until after the nominations were made. Now they can "bleed them twice instead of once." (Page 832.) He recited one instance of a ward "heeler" or worker who said: "Here is where I get in my winter's coal, that is a good big list of candidates; I will get two dollars from this one and two dollars from that one; and he totaled about forty of them at two dollars apiece. Then he went to every candidate and said 'This fight ought to be worth five dollars,' and figured out that he ought to be able to make $140 out of these candidates. I know he did this very thing because I have heard different unsuccessful candidates afterwards state: "Why I gave that fellow so and so to do certain things in his particular precinct only to find that I did not get a vote there." Another candidate for the same office had given him a like amount. This practice is very common because of the length of the campaign.

State Treasurer Sheatz, whose official residence is Harrisburg but legal residence in Philadelphia, was before the committee, but was unable to give us much information as to the operation of the

Primary Law elsewhere than in Philadelphia. He thought, however, that eventually it would cure abuses in the city of Philadelphia when the people once realize the power they have under it. (Page 821.) The case with which the members of one party nominate the candidates of another is not desirable and ought to be corrected.

Mr. Fred Weist, former district attorney of the city of York, and chairman of the Democratic committee, stated that the Primary Law had fallen far short of expectations. Some of the abuses and practices under the delegate system, such as bribery of delegates, was now impossible, but money was now in large measure used with the voters and workers, and the expense under the Primary system was largely increased. In some cases worse candidates than could have been selected by the conventions had been nominated by all parties. Mr. Weist thought that the people of his locality generally still had some hope that things would improve under the act, but among those who had taken an active part in politics they think as a general thing the act has been a failure. (Page 824.)

So far as the Democratic party is concerned, it had usually nominated its candidates for the important offices.

The voters are usually quite indifferent to the primary unless they have some particular interest in the nomination or some friend they desire to place on the ticket, and this would happen as well under the old system as under the new. Throughout the rural districts the people come out very poorly to the primary elections.

Mr. E. S. Hugentugler, assistant postmaster at York and a resident of the city for about thirty years, and for about ten years secretary of the Republican county committee, stated that the Direct Nomination feature of the Uniform Primary Act, speaking from the people's standpoint, is a dismal failure. "So far as the organization is concerned, it is better. The organization can do just about as they want with the new Primary Law." It eliminates the better class of candidates from running for office for the reason that they do not want to undergo the worry and expense of a long campaign and do the personal hard work necessary for success. It is a pure and simple campaign of personality rather

than of principle, in which the self seeker will win out if he wants to. He claimed that the majority of voters are opposed to the Primary Act and say that it is an imposition on the taxpayers and the voters. "We have lots and lots of people who will not attend the elections at all." At the primary before the presidential election only about 3,000 or 4,000 votes out of 14,000 or 15,000 were cast, and there were a number of candidates on the ticket. At the general election in the city of York, out of more than 12,000 votes only about 9,600 were registered. Business men do not wish to express their political belief in asking for the ballot of a particular party and will not attend the primary for that reason. They shun the idea of announcing publicly that they are affiliated with one or the other. (Page 828.) There is not the same opportunity under this law of the office seeking the man as there is under the convention system. The expense is doubled. A year ago it cost one man $800 for a nomination to an office which paid $500 or $600. Mr. Hugentugler objected to the primary being held in June so long before the election. In the city where the "soaks" and "floaters" are, they have the candidate spotted for four, five or six months, and it makes life miserable for him.

The Committee endeavored to obtain the presence of Mr. H. C. Niles, of York, who was the practical organizer of the Lincoln Republican party. At the request of the counsel of the Committee Mr. Lewis interviewed Mr. Niles who was unable to be present, and Mr. Niles said that he thought the Uniform Primary had accomplished some good, but had not resulted in the good which was expected or anticipated.

The Operation and Results of the Primary Law in Pittsburg.

Mr. William J. Brennan, an attorney of Pittsburg, and with the exception of one year chairman of the Democratic county committee for the past twenty-seven years, expressed his disapproval of the Uniform Primaries Act in very vigorous language, so far as its effect upon the Democratic party, which is the minority party in the city and county, is concerned. The Republican majority in the county is about 40,000 and in the city from

20,000 to 25,000. He characterized the act as "freak legislation, which either came from the west or the Antipodes," and said that it was his observation and conviction that the evils which it was claimed existed under the convention system were not corrected but aggravated; that there was no special objection in Pittsburg to the delegate conventions or the candidates named, but the objections came very largely from the city of Philadelphia, and the agitation there resulted in the enactment of the law. (Page 838.) Its operation in Pittsburg was to increase the strength of the majority party organization and to decrease and tend to destroy that of the minority party. This was largely due to the fact that the minority party assisted in the nomination of the majority party candidates. Under the former system it was sometimes possible for the minority party after the majority party had made its nomination, to select a better candidate and succeed, but the Democratic party had never succeeded since the Uniform Primary went into effect, as had before happened with the aid of the Independents.

At the last primary at least 12,000 Democrats voted the Republican primary ticket. In almost all cases the so-called organization ticket of the Republican party was successful, but the evidence of Mr. Brennan and others disclosed an unusual and extraordinary situation that developed in the June, 1909, primary. Mr. Archibald Mackrell, who had been a public official and deputy sheriff for a number of years, was an experienced and able man, and against whom there was no charge of dishonesty or incompetency made by any one, was a candidate at the primary of the Republican organization for the office of sheriff of Allegheny county. The office of sheriff is second in importance to that of mayor, the population of Pittsburg being made up to quite a large extent of mill employees, of whom a very large per centage are foreigners. The salary is $8,000 per year. There was apparently no opposition to the nomination of Mr. Mackrell in the Republican ranks, but without previous announcement a young man by the name of Judd H. Bruff, twenty-eight years of age, unknown to the community, became an aspirant for the office. Mr. Bruff had served as a private soldier for eighteen months in the regular army in the Philippines and for some time before

the June primary was employed as a freight brakeman upon one of the railroads leading into Pittsburg. His education and qualifications for the office were unknown, but he was a member of the Trainman's Union, having a membership of 12,000, and as there are about 25,000 railroad employees in Greater Pittsburg, his position appealed to them, and he made a personal canvas throughout the city, basing his claim solely upon the fact that he had received from the United States government a very small compensation for his services as a soldier, while Mr. Mackrell during his long term as a public officer in one capacity or another, had received thousands of dollars, the amount of which was greatly exaggerated by the printed matter sent out by Mr. Bruff, and also by the newspapers. The Republican organization did not anticipate any danger and little attention was paid to the candidacy of Mr. Bruff. The Pittsburg Leader, a prominent independent newspaper, vigorously supported the candidacy of Mr. Bruff for reasons which were not known during the campaign preliminary to the primary. As above stated, Mr. Brennan, the chairman of the Democratic county committee, says that not less than 12,000 Democrats voted the Republican primary ticket and the result of the vote showed that Mr. Bruff had 37533 votes while Mr. Mackrell polled only 19,238 votes, and Bruff was accordingly nominated. How Mr. Bruff could conduct such a campaign, being a man without any means whatever, was a mystery to everybody until after the campaign was over when, under the Corrupt Practices Act, he filed his statement showing that he had expended $13,000 or $14,000 upwards of $7,000 of which was contributed by ex-Senator Flynn, who was a political enemy of Mr. Mackrell, and the balance, it is understood, was also borrowed from Mr. Flynn. The general belief is that the campaign cost much more money than this, and it was stated that between $4,000 and $5,000 was paid for the personal advertisements of Mr. Bruff to the newspapers, particularly the Pittsburg Leader. This remarkable result was brought about by the apathy and sense of security on the part of the Republican organization which existed because of their uniform successes at the primaries. The friends of Mr. Bruff, particularly Mr. A. P. Moore, who is connected with the Pittsburg Leader, used this circumstance as one of the

proofs of the efficiency and desirability of Direct Nominations system (page 888), while Mr. Brennan characterized it as the "rule of the mob, substituting instead of party organization or party responsibility the rule of the mob," and thought that the fact that ex-Senator Flynn had contributed so large an amount of money for the conduct of his campaign would put the successful candidate under great obligations to a political leader.

Mr. Brennan thought there should be some remedial legislation to prevent the members of one party from voting the primary ticket of the other, but this was opposed by many because it prevented independent action, and also made it necessary for voters at the primaries to declare their politics in public, which many were disinclined to do. They were also frequently annoyed by a multiplicity of candidates, and in such case when they were arranged alphabetically upon the ticket the first name had a distinct advantage, such position being worth twenty per cent of the vote, if there is a bitter fight. The people are unable to discriminate. (Page 849.) This multiplicity of candidates was frequently brought about by an attempt on the part of active candidates to induce others to run for the purpose of reducing the vote of his adversary in particular wards. Mr. Brennan did not think that it necessarily followed because one candidate received a plurality of the votes at a primary that the people had made the best selection for that particular office; that more than three-fourths of the time they would make the worst selection, due to the personal activity of the candidate himself and the expenditure of money. He commended the Legislature of New York for instituting this investigation.

Upon the Republican primary ballot used in the Bruff-Mackrell contest we have also entered the votes cast for the candidates for jury commissioner. Eight candidates contended for this office and the total number of votes cast was 50,462, of which the successful nominee, Bart Fleming, had 17,622, and the other candidates together received 32,840.

This furnishes an illustration of the result where there are numerous candidates and the vote against the successful man is split to such an extent that he is nominated with a small plurality; in other words, there were 32,840 votes against Mr. Fleming

and 17,622 for him, but notwithstanding this fact he is still regarded as the candidate of the Republican party. Upon the Republican primary ticket for the primary held in April, 1908, there were eighteen candidates for representative in general assembly, of whom four were to be nominated. The total vote cast was 57,742, of which the four winners together received 27,532, and all others received 30,210.

Upon the same ticket there were nine candidates for county commissioner, with two to be nominated. The total number of votes cast for all was 155,596, of which the two successful candidates together had 67,108, and all others 88,488.

The primary ballots of the Socialist party and Prohibition party show no contests in any of the offices.

Mr. W. S. McClatchey, chief clerk of the county commissioners, having charge of primaries and elections, stated that he had observed the added strength because of location of the candidate's name upon the primary ballot; in one instance among the candidates for delegate to the Republican convention, a man practically unknown, by the name of Allen, ran the highest of any candidate on the ticket. The organization candidates, however, in the case of representative in General Assembly, where there were eighteen candidates, were all nominated regardless of their location upon the ticket. Since the law went into effect he knew of no case where the organization candidate had been defeated for any important office, except the case of sheriff in the last primary. There were a number of councilmen in the city under indictment who had been renominated under the Direct system, after indictment. (Page 864.)

One of the most careful and interesting witnesses before the Committee at Pittsburg was Mr. Lee S. Smith, a Republican in national affairs, but independent as to local affairs. Mr. Smith is a dental supply manufacturer and dealer in dental works, and for two years has been president of the chamber of commerce of the city of Pittsburg. He said that under the old system of delegate and convention the party in power, because of dishonest election officers and elections, had become abominably corrupt, and thought that the new law had to some extent corrected this situation. He stated, however, that the convention system was not

regulated by statute and thought that the influence of the bosses in the primaries had been lessened. He thought it was problematical whether the present system resulted in the selection of a better class of candidates, and under the old system when bad nominations were made by the dominant party they were defeated at the polls, which happened about every third year.

"The present system is an awful expense on the candidate," said Mr. Smith; "one of them spent $32,000 and was defeated as a candidate for mayor at the primaries." (Page 872.) The salary is $10,000 a year for three years and no longer. His opponent spent over $20,000.

Referring to the Bruff-Mackrell contest, Mr. Smith said (page 878) "that there were no charges or suggestions that Mackrell had not been a competent and efficient officer; the only charge I heard occurred in their advertisements; they harped more that this young man had gone to the Philippines and fought for his country when they needed men, and that he had never held office, and he had only received thirteen dollars a month for his services; they harped on that and it seemed to strike a popular chord, and it was one of the most astonishing things that ever happened; I never knew anything like it myself." That the principal cry was that the "other man had been for twenty-five or thirty-five years an office holder and he had received so many thousands of dollars, and this young man had never had anything and gone and offered his life on the altar of his country and went to the Philippines, and that seemed to strike a popular chord and swept him into nomination." "There are a great many men who would make the very best officers in the world, men who would not ask you to vote for them and never get it; as an illustration, I say that the best men are often those who would not ask for office, and who would not announce themselves. Such men would not enter such a primary and fight as was done in the case of the man who spent $32,000 while his adversary spent $20,000; they placarded the city from one end to the other with the merits of themselves. One of them was called 'Honest John' and he had himself heralded on little go-carts going through the streets placarded with 'Honest John.' Now no honorable citizen would want anything of that kind. While the other was going around and they were black-

mailing each other and throwing mud at each other in such a way that no honorable, upright business man would want to do or would do to get office." (Page 881.)

Mr. Smith admitted that he had been requested to be a candidate for mayor, but would not undertake a contest of this kind. In summing up his position, Mr. Smith said that if a convention could be honestly conducted it would be more likely to get good men for public office, and assuming that both primary and convention were equally, honestly and fairly conducted, he would prefer the convention for this reason. (Page 882.)

Mr. A. P. Moore, to whom reference has been made above, vigorously contended for the Direct Nominations system, and for its extension to State officers.

He also stated that he believed in the initiative, the referendum and the recall. "I believe in letting the people absolutely rule." Q. Get together and make their own laws? A. Yes, sir.

Honorable William A. Magee, the present mayor of the city of Pittsburg, who was State senator from 1902 to 1905 and a member of the Pittsburg council from 1898 to 1901, stated that he had observed the working of the Uniform Primaries Act very carefully. (Page 901.) He thought that a great benefit had been derived from the passage of the law, which was really independent of the Direct Voting system, as the act of 1906 provided safeguards relating to the purity of the election and the casting of votes by the voter independently. Previous to the passage of this law Pennsylvania had no statute governing primary elections, except that there was a penalty provided for fraudulent voting, and the election law was without any protection against fraudulent voting and fraudulent counting. There was no registration of voters except it was provided under the rules of the parties; the result of this was that up until 1905 the people in very few instances took any part in the primary elections. The political organizations took complete charge of the primaries and only those persons voted who felt some particular interest in the particular election. The primaries did not excite general interest. (Page 902.) The Republican county committee of Allegheny county in 1905 adopted the Direct Voting system, but was not able to make any effective reform in the election machinery system. (Page

903.) There was no opportunity for an Independent who either was opposed to machine politics or who was not a part of the machine, to make any headway in any aspiration he might have to go on the party ticket. The result of all that was that the majority party here, the Republican party, for a period of five or six years, was regularly defeated twice a year. (Page 904.)

The first primary election held under the party rules brought out a large number of votes, but there were charges of fraud, bribery, corruption, intimidation etc., and shortly after the Uniform Primary Act was adopted at the special session.

Mayor Magee noted several defects in the law:

First. The voting of the majority party ticket by thousands of members of the minority party.

Second. That a large proportion of the voters will not abide by the primary, and if unsuccessful, will file independent nominations, which makes a multiplicity of candidates at the election as well as at the primary.

Mayor Magee thinks there is no use of a primary unless it carries with it the support of all the persons who participate in it. (Page 909.)

Third. The plurality nomination in which a successful candidate may receive only a small percentage of the total vote. "I can easily see," said the mayor, "how a very bad man might be elected to a very important office, unless something or other was provided in the rules to get the real sentiment of the majority of the people." (Page 911.) The suggestion which has been made of requiring the voters to exercise a second choice, the mayor did not approve. "I do not believe the suggestion about voting a second choice is a feasible one. I think there are, I say it very frankly, I say there are some voters who do not know how to vote for a first choice. My opinion is that many voters must be advised. We have an enormous foreign population in this community, many of them who cannot read English, and many of them who cannot read their own language, and sometimes if they can read they do not know enough about the issues involved or about the candidates before the people to exercise an intelligent choice." (Page 911.)

The mayor added that the result of the primary election as

he saw it in Allegheny county and in Pittsburg is merely to bring about a more or less imperfect way of selecting party candidates, and it results in compelling two elections. He thought that where the party sentiment was so overwhelmingly in favor of one party and against the other, the primary election ought to be decided in the general election; one ought to end the other. He said the law is popular principally because it gives an honest primary election.

The mayor commented upon the Bruff-Mackrell contest and in conclusion said (page 914): "This young man, a young man that no one knows anything about, that no one knows whether he has qualifications for this important office or not, knows about his ability, about his training, about his temperament, or anything else, beat this old political war horse two to one. Now I say that this young man may turn out to be the best office holder that ever was, but what I say about that primary is that the people did not know that; those who voted for him did not know that he has the qualifications to fill the office. Now under the old time convention system no political organization, no matter how much bossed it was or how perfectly controlled the machinery was, would dare to put out before the people an unknown young man like this as a candidate for an important office of that nature; would not dare to do it." (Page 916.)

He also commented unfavorably upon the operation of the law in the selection of judges in the courts, and spoke of the agitation for a new court of common pleas in the city, which meant the election of three judges and provided for the holding of a primary to select the candidates. The bill did not pass, but in anticipation of its passage there was a very undignified scramble among great numbers of members of the bar for the places. The petitions of more than a dozen lawyers were filed after the bill was passed by the Legislature and before it was vetoed by the governor. Prior to the Primary Act "there has always been an attitude of dignified reserve on the part of men to allow their names to be considered as candidates for judge. And this system is going to produce a different state of affairs; the men I'm afraid hereafter who will want the judicial nominations, will be the best hustlers or the most popular men rather than the most able."

The mayor stated in answer to a question, assuming that the primaries could be safeguarded by proper legislation and honestly conducted, and that delegates to our conventions are thus selected, which conventions select the nominees of the parties for the consideration of the people, that his own belief is that the convention system with a bi-partisan board and with all the safeguards to bring out a fair election, will result in the choice of more capable men for the offices." (Page 920.) But he questioned the advisability of a return to the convention system as it would drive away the casual and independent voter from the primary and there might be a return to the unfortunate conditions prior to the Primary Act. He thought that ultimately the people would have a Direct Primary Law, but whether or not such a complicated thing as this can at this time be submitted to the votes of the people was the real question; that in some ways it had produced most excellent results and in other ways it had not produced good results, and that he was a little bit afraid that Pennsylvania had been too previous about it. "I want you to understand," said he, "that the Direct Primary Law was not the result of a demand for a direct vote, but was the demand for honest primary elections." * * * "We passed a Personal Registration Law, a Corrupt Practices Act and a Direct Nominations System all at one session." (Pages 929, 930.)

Mr. W. H. Coleman, the clerk of the courts of Allegheny county, furnished the Committee with the expense statements of the candidates at the June primaries, 1909, some of which are interesting:

Name and Office.	Expense.	Salary.
Mackrell, Sheriff	$443 00	$8,000 00
Bruff, Sheriff	$13,512 08	8,000 00
Magee, Mayor	18,282 07	10,000 00
Steele, Mayor	32,009 45	10,000 00
March Primaries, 1908.		
Coleman, Clerk of Courts	$3,021 61	$6,000 00
Dodds, Clerk of Courts	2,009 60	6,000 00
O'Neill, Commissioner	3,727 75	6,000 00
Brand, Commissioner	3,551 50	6,000 00

Name and Office.	Expense.	Salary.
Copp, Commissioner	3,057 33	6,000 00
Bryce, Commissioner	1,529 84	6,000 00
Toole, Commissioner	1,194 13	6,000 00
Fairman, Recorder	600 00	6,000 00
Swan, Recorder	1,954 25	6,000 00
Cunningham, Comptroller	3,859 87	6,000 00
Booth, Comptroller	4,141 57	6,000 00
Stern, Register	5,787 36	4,000 00
Edwards, Register	2,831 62	4,000 00

Mr. W. H. Stevenson, a merchant and an independent Republican, spoke strongly in favor of the Primary Law as contrasted with the former conditions under the convention system. He also stated that he was strongly in favor of the initiative, the referendum and the recall (940). He thought that the State Legislature should not pass laws that restricted the government in a city like Pittsburg. That they were very much handicapped and restricted by that means. He believed in a pure democracy. He also stated (948) that he would modify his views in this respect "that if you could safeguard the delegate system from corruption and influence that you probably could get better results than you could in a general way from these incompetent voters that we have here, because we have — you know where a manufacturing district like Pittsburg every fourth man that you meet on Fifth avenue, or Wood street, or Smithfield street, is a foreigner — you walk down the street here and every fourth man you meet is a foreigner and it takes him a long time to understand, and he don't understand many times the value of the franchise, what he is voting for." There is no way under the uniform primary for the minority party to select a good candidate as against a bad candidate, who may have been selected by the majority party, since the primaries are all held by both parties on the same day (953).

Mr. Stevenson said that he had seen the minority party practically wiped out at the primaries, not that they did not vote, but that they voted the Republican ticket, and regarded that as a very unhealthy condition of affairs (956).

Observations on the Pennsylvania System.

1. The Uniform Primaries Act does not include State officers, or United States Senators, but includes delegates to State conventions; there appears to be no popular demand for the extension of the system to include State officers and the abolition of the State convention.

2. The uniformity of the system so far as applicable is a desirable feature, and in general, the method of nomination under this law, as contrasted with the former delegate and convention system, unregulated and uncontrolled by statute, is an improvement over the old method, so far as orderly procedure is concerned, and has increased the interest and attendance of voters of the majority party at the primaries.

3. The operation of the system is very expensive to the State, expensive to the individual candidates and practically prohibits a man without means from aspiring to an important office in a large district. The expenditure of large sums of money by candidates in furthering the candidacy of an individual by newspaper advertisements, mailing of circulars, posting of lithographs, etc., seems to be the only way in which an unknown person can make his commendable qualities known to the large mass of people within his district, but the heat of the campaign is very likely to result in the use of money in such ways as will have a corrupting influence upon the electorate.

4. Two primaries and two elections with necessary registration and assessment laws were burdensome to voters and party com mittees alike and one of these was, by popular vote at the election in November, 1909, abolished.

5. The nomination by the direct method and the election of the election officers by popular vote in large cities, is undesirable, and better results can be obtained by the appointment of these officers, and the primary ticket thus be relieved in a city like Pittsburg from the nomination of about 3,500 election officers.

6. In the six trials of the uniform primary, the majority party has succeeded, with the exception of a single notable instance in Pittsburg, in the nomination of all its candidates for important offices, and has done this without exception in the city of Phila-

delphia, and there has been no successful fusion against the majority party since the act went into operation.

7. In some instances a large number of candidates has operated to dissipate the vote to such an extent as to cause the nomination of unknown or undesirable candidates by a small plurality vote; this multiplicity of candidates arises in many ways:

(a) Through the efforts of candidates desiring to reduce the vote of their strongest adversary in particular localities.

(b) Through the personal ambition of individuals to secure official position.

(c) Through the willingness of some men to become candidates for the purpose of being induced for a money or other consideration to withdraw before the primary.

(d) Through the practice of certain individuals in placing names upon the ticket as a practical joke.

8. There has been no marked improvement in the character or *personnel* of candidates and public officials selected by this method.

9. There being no party enrollment law, it is easy for a member of one party to vote the primary ticket of another, unless challenged, and this has been practiced to such a large extent that the minority party assists the majority party in nominating its candidates, and the majority party frequently names or dictates the nomination of the minority party candidates for principal offices; thus it is no uncommon thing to find a Republican running as the regular candidate of the Democratic party; this results in the disintegration of the minority party, and the general result of the operation of the system in Philadelphia has been the strengthening of the majority party organization and the weakening of the minority party.

10. The names of candidates are placed upon the primary tickets in alphabetical order and where there are many candidates for a single office, those at the head of the ticket have a decided advantage over those whose names appear further down; it appears, however, that the so-called organization candidates have succeeded, no matter where their names appear upon the primary ticket.

KANSAS.

The Law.

The Primary Election Law of the State of Kansas was passed at a special session January 28, 1908, and approved February 1, 1908. It provides that a primary shall be held on the first Tuesday of August, 1908, and biennially thereafter, for the nomination of all candidates to be voted for at the November election, and on the first Tuesday of March, 1909, and annually thereafter in all cities having 10,000 or more population, for all candidates to be voted for at the next ensuing city election. It will thus be seen that in counties having no cities, a primary election will occur once in two years and in cities of 10,000 or more, there will be a primary election every year and two every other year. The word "primary" under this act means the primary election provided for therein. All candidates for elective offices are required to be nominated by the primary held in accordance with the act; or by independent nomination papers signed and filed as provided by the existing statutes; the person receiving the greatest number of votes at a primary as the candidate of a party for any office other than United States Senator, shall be the candidate of that party for such office, and his name shall be placed upon the official ballot at the ensuing election; if there is a tie vote, the boards of canvassers shall determine the tie by lot. The candidate for United States Senator receiving the highest number of votes of his party in the greatest number of Representative and Senatorial districts of the State shall be the nominee of such party. The Primary Act does not apply to special elections to fill vacancies, nor to school district meetings for the election of the school district officers, nor to city elections where the population is less than 10,000. All candidates for office must file nomination papers signed by voters, who declare that they intend to support the candidate therein named and that they have not signed and will not sign any petition or nomination paper for any other person for said office, and there must be attached the affidavit of a qualified elector in the community, to the effect that the signers are electors of that precinct and that the affiant intends to support

the candidate therein named. To entitle such nomination paper to be filed it must be signed, if for a State office or for a United States Senator, by at least 1 per cent. of the voters of the party of such candidate in at least ten counties of the State, and in the aggregate not less than 1 per cent, nor more than 10 per cent. of the total vote of his party in this State, or by at least 1 per cent. of the total vote of his party in each of twenty counties.

If for a district office by at least 2 per cent. of the voters of the party designated in at least one-tenth of the election precincts and in the aggregate not less than 2 per cent. nor more than 10 per cent. of the total vote of the party designated in such district. If for sub-district office or for county office by at least 3 per cent. of the party vote in at least one-fourth of the election precincts of such sub-district or county; and in the aggregate not less than 3 per cent. nor more than 10 per cent. of the total vote of the party designated in such sub-district or county. If for a county precinct committeeman, by at least 10 per cent. of the party vote in such precinct. The basis of percentage shall be the vote of the party for Secretary of State at the last preceding State election. In the case of the nomination for city offices, 5 per cent. of the party vote in each of at least one-fourth of the election precincts of the city is required and in the aggregate not less than 5 per cent. nor more than 10 per cent. of the total vote of the party designated in such city. There are similar provisions for the nomination for councilmen and precinct committeemen.

The ballots are printed at public expense and the nominations are placed thereon alphabetically under the appropriate title of each office and party designation.

The general provisions of the Election Law control the conduct of the primaries. There are separate party tickets and also a blank ticket, on which shall be printed the titles of the officers to be voted for by the electorate at the polling place for which the ticket is printed. Each voter is required to ask for the party ticket he desires to vote and is entitled to receive it unless challenged, in which case, he must take an oath to the effect that he is a legally qualified voter and a member of and affiliated with the party whose ticket he demands, and that he has not signed the petition of a member of any other party, who is seeking nomina-

tion at this primary election, nor of an independent candidate. Party organization and government is provided for by the election of county precinct committeemen constituting a county committee, which shall elect its own chairman, and this chairman becomes *ex officio* a member of the State committee and of each of the several party committees of the district within which his county is situated.

The State convention or State party council, as it is called, of each party is required to meet at the Capitol on the last Tuesday of August after the date on which any primary is held preliminary to any November election, thus making necessary a meeting of such party council once in two years. It is made up of the candidates for various State offices, for United States Senator, for members of the National House of Representatives, for the State Senate, for the State House of Representatives, the national committeemen, and the chairman of the county committees of the several counties of the State. They are required to formulate the State platform of their party, change or alter the party emblem; this platform must be formulated and made public not later than six o'clock in the afternoon of the day following their adjournment. Such party council continues for two years and has power to call special meetings and perform such other business as may be consistent with the provisions of the Primary Act, but no member of such council shall be represented by proxy.

The expenses necessarily incurred in printing and in conducting primaries are paid out of the treasury of the city, county or State, the same as in the case of elections. There is no provision requiring the filing of a statement of the expenses of a candidate in conducting his canvass for a nomination, but there is a Corrupt Practices Act, which prohibits certain expenditures of money, usually prohibited in other states.

The Kansas Primary Law is also a model of simplicity and state-wide in its application, the only exceptions being school officers and municipal officers in cities under 10,000.

The Operation and Results of the Primary Law in Kansas.

The only session of the Committee in the State of Kansas was held at the Capitol Building in Topeka, August 16, 1909.

As but one State primary has been held under the law, that of August, 1908, the operation and effectiveness of the system could not be studied with any great measure of profit. The views of witnesses, who attended before the Committee, therefore, are very largely of an academic nature, and it was quite easy to see that the supporters of Governor Stubbs, the successful candidate for Governor at this primary, were enthusiastic in their advocacy of the law, and its working, while those who were opposed to him and supported his adversary, were also opposed to the use of the direct method for the nomination of candidates.

Hon. C. E. Denton, Secretary of State, presented the Committee with a copy of his sixteenth biennial report, upon pages 125 and 126 of which appears a table showing, among other things:

Population of State, March 1, 1908, 1,656,799.

Total vote for Governor, all parties, November, 1908, 374,705.

Total vote for Governor, all parties, at primary election, August 4, 1908, 169,634.

Cost of primary election, August 4, 1908, as reported by county clerks, $103,545.68.

Total tax for State purposes, 1908, $2,203,561.18.

County of Crawford, population 51,423; Lynn, population 15,313; Jewel, population 17,619; Morton, 1,050, failed to file reports of their expenses.

The Republican vote cast at the primary in 1908 was approximately 123,000, and by all other parties, 46,000.

It will thus be seen that about 45 per cent. of the total vote of the State was cast at the primary. And the public cost of the primary excluding the cost in the counties mentioned was approximately sixty cents for each vote cast.

Mr. Denton explained to the Committee that the public expense shown in his report is very much less than the actual expense and probably would be considerably less than the actual expense for the next primary, for the reason that at this first primary there were many people who were particularly anxious to see it made a great success and were more or less enthusiastic over it, and they

donated their services as clerks and judges and that sort of thing without pay, but that he did not think they would do it any more (999). It will be also understood that in all cities having a population of 10,000 or more there will be, in addition to the State primary, a municipal primary in March of each year. Practically the entire expense of the State government of Kansas is made by a direct tax, there being no such indirect taxes as we have in this State. It costs more to print the primary ballots than the election ballots because the election ballot is a blanket ballot, while the primary ballots are separate for each party.

Samples of the primary ballots of the several parties used at the primary preceding the June election and at the primary preceding the city election in Kansas City, Kansas, with the vote of each candidate entered thereon are returned with this report. The blank ballot required by law was not furnished the Committee.

Four primary tickets, Republican, Democratic, Prohibition and Socialist, were used at the primary preceding the June election in 1908. On the Republican ticket, there were four contestants for the three justices of Supreme Court, two for the office of Governor, two for Attorney-General, three for State Printer, two for United States Senator, two for State Senator in the Fourth District, two for Representative in the Eleventh District, two for county treasurer, five for register of deeds, four for probate judge, six for sheriff, two for coroner, three for superintendent of public instruction, three for county surveyor, two for judge of the Twenty-Ninth Judicial District, two for judge of the Court of Common Pleas, two for judge of the Circuit Court, four for clerk of the District Court, two for clerk of the Circuit Court, five for county commissioner, two for treasurer of Wyandotte township, and one each for the eighteen other offices for which candidates were to be nominated by this ticket. The ticket is thirty-eight inches long, has two columns, forty offices including presidential electors, for which candidates are to be nominated, and ninety names. The voter must mark his X mark in the square opposite to the name of each candidate whose nomination he desires. An examination of the vote cast discloses the fact that the names of the more important officers upon the first part of the ticket, for example, Governor, received 5,173 votes, while the total vote cast for clerk of the Circuit Court,

in which there was a contest, was 4,787, about 300 less than the vote cast for Governor, in Newton precinct of Wyandotte county.

The primary vote cast for Republican candidates for Governor in the same district, as above stated, was 5,173, and the successful candidate received at the election, which ensued, 8,477, showing that about 61 per cent. of the party vote participated in the Republican primary, provided, of course, all the primary votes were Republican.

Upon the Democratic ticket, there were three contestants for the office of Governor at the same primary and the total Democratic vote cast at this primary was 1,938, while the successful candidate received 9,180 votes at the election which ensued, showing that about 21 per cent. of the Democratic votes for Governor voted the Democratic primary ticket. It may be said in this connection that the observation of the Committee is that the minority party in every State and locality investigated, takes but little interest in the primary election, so far as their own ticket is concerned. A more marked difference will appear later in the report.

In sparsely settled counties, like Wichita county, the cost of the primary was $410.50 and the number of voters that participated at the primary was 291. In Stanton county, the cost of the primary was $333.03 and the number of voters participating was 132 (960).

At the primary for the municipal election in Kansas City, Kansas, there were four candidates for city attorney, who received altogether 4,697 votes. The successful candidate received 1,570 and his opponents 3,127. There were five candidates for marshal of the City Court, total vote cast, 2,892, of which the successful candidate received 831 and his opponents 2,061.

The largest number of primary votes for mayor was 5,405, and the number is greatly reduced as you come down the line of candidates, showing that more people were interested in the contest for mayor than for the minor offices. The smallest vote was 1,537 for councilman.

Mr. C. Howes, who for nine years has been the personal representative of the Kansas City *Star,* watching legislation at Topeka, furnished the Committee with some interesting facts concerning

the 1908 primary, and the cost to individual candidates of conducting their campaigns for the nomination.

The figures from Governor Stubbs were furnished by his personal representative, Mr. J. M. Dolley, the present Speaker of the House, and also the Bank Commissioner and chairman of the State Republican Committee. Mr. Stubbs was the successful candidate for Governor and subsequently elected. Senator Long, who was defeated by Senator Bristow, furnished a statement showing an expense of $6,523.70. Cyrus Leland, defeated candidate for Governor, $6,120. W. R. Stubbs, successful candidate, $3,713, and Mr. Bristow, the successful candidate for United States Senator, $3,524.28. These moneys were expended chiefly for postage and sending out circulars according to the statement and for printing, and for newspaper advertising, which was practised quite generally throughout the State. The candidates would buy a whole page or half a page on the Sunday before the primary; supplements were sent out containing nothing but advertisements of candidates, all of which were paid for (966). The advertisements were paid for and the papers usually gave little news items as a sort of bonus "just like they do in theatrical advertising" (966). Democratic papers published Republican candidates' advertisements and in some instances, urged Democrats to vote for Republicans in the primary, when they wanted a weak Republican where they had a strong Democratic candidate opposing him or who would oppose him in the election (968).

There was an effort made through the Democratic newspapers looking toward the nomination of weak Republican candidates for the purpose of beating them at the polls. The returns from many of the counties indicated that Democrats participated to quite an extent in Republican primaries. The defeated candidates claimed that this was so and the nominated candidates denied it. In some places, the returns show a higher Republican vote in the primary than the entire Republican vote at the election. It very seldom happened that Republicans voted the Democratic primary ticket (969). The Republican party being the dominant party, there was not much of a campaign in the Democratic party. There were two candidates for Governor, but they did not make much of a fight (970). "It was a Republican scrap all the way through and as a result of it, factional differences and bitterness was started

up, which has continued through the campaign and the general election and since" (970).

Mr. Stubbs, the successful candidate for Governor, received between four and five thousand less votes than the other candidates on the Republican ticket. It was evident in nearly every case where there were several candidates that the men at the head of the list had an advantage. This was so observable that at the session of the Legislature in 1909, the Primary Law was amended so as to provide for an alternating or rotating system. The names of candidates are printed in alphabetical order in one precinct, and in the next the first name is dropped to the bottom and the next name comes to the top, the intention being to give each candidate substantially the same chance at the head of the ticket. The primary campaign is the greater struggle in this State, it being a personal and not a party campaign in the majority party. The normal Republican majority in the State is about 40,000. It will be observed that the party council or State convention does not meet under the Primary Act until after the nominations are made, so that the individuals, who are candidates before the primary, make their own platform, and the successful candidate endeavors to have his ideas embodied in the party platform subsequently adopted (978). Some of the ideas of the losing candidates were also incorporated for the sake of harmony in the platform, upon which the successful candidate ran. The platform that is made at the party council or convention is intended to express the individual views so far as possible of the candidates that are nominated at the primary; the candidates at this party council constitute the majority. If the party council adopts a platform inconsistent with the position taken by the successful candidate, he makes his race upon the platform and adds a little of his personal platform to it, and to that extent is not responsible to the party machinery for the sentiments that he expressed (979). He amends the platform to suit himself. The successful candidate writes no letter of acceptance, as he does not obtain the nomination at the hands of the party and is not responsible to it, although he expects the party organization to support him at the polls. Generally speaking, at the last election the party was loyal to the successful candidate in

the campaign, although there might have been as many as eight or ten thousand votes that changed (980).

The law was enacted for the purpose of getting rid of certain leaders called bosses, dictators, etc., in party council, but it has not entirely gotten rid of them. "The head of the ticket does considerable dictating" (981).

Before the nomination of Governor Stubbs, he was characterized as a reformer, but after his success at the primary in 1908, he became the leader or head or boss of the Republican State organization. The system merely operates to substitute one party boss for another (981).

The newspapers probably have more influence in a primary campaign than the candidates themselves. The Kansas City *Star,* Topeka *Capitol* and Topeka State *Journal* have general circulation throughout the State and if these papers supported the candidacy of a particular individual, a man who may be opposed by these papers would not have much of a show, "so that the newspapers become in a sense the bosses of the situation" (982).

To a considerable extent during the primary campaign, there was bitterness and accusations and counter accusations made through the newspapers. The Primary Law, however, is popular here and that method of campaign is regarded as dignified and a satisfactory method of selecting wise and competent and unselfish public servants. A man selected in that way will probably not be as friendly to the interest of those who opposed him as he will toward those who supported him loyally. It is not a serious prejudice, but he realizes that they were opposed to him and they are now probably, and he is not as friendly to them as he is with the papers that supported him. Such papers get no patronage from the public administration.

United States Senator Bristow, one of the Senators that voted against the Payne Tariff Bill in the present Congress, received the endorsement at the primary and was subsequently elected. Curtice, the other Senator from Kansas, was nominated and elected under the old system and voted for the Tariff Bill. Governor Stubbs is the only new State officer that was nominated under the primary system, the old State officers were simply renominated.

The chief objection to the Primary Law is that the voters do not

come out and they are not able to keep the Democrats from voting in the Republican primary. There is a movement on foot to adopt the Des Moines commission plan for the government of Topeka, and this system has been adopted in Leavenworth, Independence, Wichita, Kansas City and Atchison; Topeka, Coffeeville and Salina are agitating it.

Mr. Howes thought that the effect of the primary in Kansas was the selection of better candidates and more capable men, but that they had not had sufficient experience to know what might result ultimately.

It is to be noted that only one new State officer, the Governor, was so elected.

Prior to the adoption of the Primary Law, there was a law that permitted local regulation of primaries under the delegate and convention system, but it was not operative (993).

The population of Kansas is approximately 1,600,000 and the voting population from 375,000 to 400,000. The percentage of illiteracy is very small, being less than 3 per cent. The center of population is approximately about 100 miles west of the east line of the State.

Kansas City contains about 100,000 people and there are but few other large towns, many of which have recently adopted the DesMoines commission system of government. One reason given for the excellent results of this system in the city of Galveston, Texas, is the fact that there is a poll tax of $3 as a necessary condition to the exercise of the franchise; this operates to prevent about two-fifths of the population from voting and gets rid of the ignorant and vicious element, who will not pay the necessary tax.

At the last session of the Legislature, the Primary Law was amended so as to make it not operative in cities under 10,000 instead of 5,000 as originally enacted.

There are 105 counties and 165 members of the lower house of the Legislature and forty Senators. The compensation to members of the Legislature is $3 per day and mileage not to exceed fifty days for the biennial session and if a special session is called, they can draw pay for not to exceed thirty days.

As an illustration of the participation of the voters in the primary of August 4, 1908, in the rural districts as compared with

their participation in the cities, the official primary election returns and the official election returns of Dickinson county, Kansas, will be of interest:

In the city of Abilene, this county, the Republican candidates for Governor received at the primary 535 votes, and at the election, 523, but in the entire county of Dickinson, the Republican candidates received 1,998 votes at the primary, and at the election, Mr. Stubbs, the successful candidate, received 2,889, or about 69 per cent. of the Republican vote in the county. It is claimed that the large number of Republican primary votes in the city of Abilene is due to the voting by Democrats of Republican primary tickets.

The comparison of the vote cast at the primary and at the election in a few of the rural towns, in this county, will be profitable:

The town of Union cast at the election for the Republican candidate for Governor, thirty-five votes; the same town cast for both Republican candidates at the primary, eleven votes. The town of Willowdale cast at the election for Mr. Stubbs, fifty-one votes; the same town cast for both Republican candidates at the primary, nine votes. The town of Hayes cast for Mr. Stubbs at the election fifty-one votes and for both candidates at the primary, twenty-three votes. The town of Fragrant Hill cast for Mr. Stubbs at the election, forty-three votes, and for both Republican candidates at the primary, thirteen votes.

This proportion seems to be substantially the same throughout the rural districts. It will also be remembered that this was the first primary under the new law and that there was a very strenuout contest between Senator Long and Mr. Bristow for the United States Senatorship.

Governor Stubbs testified that he was a candidate nearly one year before the primary and conducted an active campaign by sending out literature from his headquarters in Topeka and particularly by visiting the various counties and making public speeches in ninety of the 105 counties, and in some of those counties, making five or six public speeches.

Mr. Leland, his Republican opponent, conducted his campaign on similar lines, and Senator Long and Mr. Bristow conducted similar campaigns, so that in the Republican party there was a

fierce contest for several months before the primary of August 4, 1908.

Mr. A. Cain, connected with the *State Journal,* a daily paper published at Topeka, listened to the testimony of Mr. Howes, and stated that Mr. Howes reflected his sentiments, except that he believed the convention system would operate in Kansas to select better officers for the public service.

He mentioned the fact that the State was under Populist control for about twelve years, and at one time there was a Prohibition Governor, Mr. St. John. The Populist party, he said, was assimilated by both parties; that is to say, the Populist party has been assimilated by the Democrats and the Republicans have taken its principles; the Republicans had the issues and the Democrats the men (996).

It has long been the custom in Kansas to assess public officers for general election campaign expenses. The rule has been to assess the chief officers 10 per cent. of their salary and the clerks 2½ per cent. This has been a common practice throughout the State by the dominant party and there is no law prohibiting it.

Hon. C. E. Denton, Secretary of State, verified the statements contained in his report heretofore referred to and expressed himself strongly as opposed to the new Primary Law, commenting particularly upon the expense to the State and to candidates. A large portion of the expense is received by the newspapers, who are almost without exception favorable to the law. The personal advertising of the candidates and the public printing necessitated by the law give the newspapers a very large source of income, which under the convention system they did not receive. That it was practically impossible for a candidate to succeed who did not have the influence of the large newspapers with him. He also thought that the operation of the law tended to favor to a great extent citizens residing in large communities as against an aspirant of a rural community; and if a man had no money and could not borrow it, he might better never start a campaign for a State office, or for any office requiring a personal appeal to the voters located in a large territory (1012).

Mr. D. M. Mulvane, a prominent attorney of the city of Topeka and the Kansas member of the Republican National Committee

for the past twelve years, took a position similar to that of the Secretary of State.

He had also been a member of the State Committee. One of his principal objections to the system was that it built up factional differences in the party and would ultimately disintegrate parties and party organization and loyalty to party control. He added that he had talked with every member of the National Republican Committee from the states in which direct primary laws had been adopted, and that without exception, they made the same criticism that it had a tendency to disorganize the party. He also objected to the plurality system and said that there was considerable discussion for the adoption of an amendment looking toward a second and a third choice.

In this connection, it may be added that at the last session of the Kansas Legislature, a bill was introduced and urged with considerable force making it compulsory upon every voter at a primary to express as many choices as there were candidates for a particular office, and that these choices should be expressed by numerals in the inverse order of the choice, that is to say, if there were five candidates, the first choice would be expressed by the numeral 5, second by the numeral 4, and so on. The bill then provides for a count of these numerals and a mathematical calculation in order to work out a theoretical majority sentiment. The gentleman advocating this bill has sent a copy of it to the Committee, with the request that its provisions be incorporated in whatever primary law may be enacted in this State.

The Committee was greatly favored by the voluntary appearance of Hon. W. R. Stubbs, Governor of the State, and Hon. Cyrus Leland, his Republican opponent in the primary of August 4, 1908.

Governor Stubbs was a member of the Legislature at the time of the enactment of this law and opposed a bill intended to regulate primaries, retaining the delegate and convention system, for the reason, as he stated substantially, that if such a law were passed, it would be more difficult to pass a direct nomination bill, which he and many friends were contending for. He introduced the bill and after two regular sessions it was passed at a special session in January, 1908, with the first primary to be held in August of the

same year. Before the passage of this act, he became a candidate for Governor and conducted a very vigorous campaign during all of this year before the primary against his republican opponent.

It is impossible in this report, to give at length the arguments made by Governor Stubbs before the Committee in favor of the Kansas Primary Law, which he expressed himself as very proud of, and regarded it as one of the most important pieces of legislation for many years. His evidence will be found at pages 1027 to 1068 of the record.

The Republicans of Kansas are divided into two factions, which they call "Progressives" and "Conservatives." Mr. Stubbs was identified with Mr. Bristow and it seems that Mr. Leland was also identified with Mr. Bristow and against Senator Long. The political manager of the campaign of Mr. Stubbs was Mr. Dolley, who became the chairman of the Republican State Committee, the Speaker of the House of Representatives in Kansas, and Bank Commissioner. It is claimed by the Governor's opponents that there is simply a substitution of political bosses in the State, the Governor being now supreme in his faction of the party. Whether there is any ground for such charge can be best determined, perhaps, by quoting a few words from his testimony at pages 1053, 1054: "With this law, there has been a general movement here in Kansas that has to operate the government and party management and public affairs of the State from a public point of view, to cut out every little self interest that was common under the old spoils system of politics. There are mighty few men that are getting any special privileges or special advantages in Kansas under our present form of government. And I am very much pleased indeed, with the Primary Election Law. Of course, we have not tried it very long and it may develop weak spots in it that we don't know about. * * * Q. Governor, speaking about the spoils system, tell us as to whether the friends of the successful candidates get jobs or not, or doesn't that make any difference? A. Well, now, since I have been Governor, I have appointed a good many men to office, and I have been under the impression that fellows who believed in the things I advocated and stood for were really the best fellows for office."

It is a well known fact that no opponent of the Governor in any of the counties of the State has received an appointment, and that

such appointments as were within the power of the Governor have gone largely to the men who organized to further his campaign for the nomination in the various counties of the State.

Governor Stubbs favored the amendment made to the law at the last session of the Legislature by which the so-called "Rotating System" of placing names upon the primary ballot, where there were several candidates, because he said his name began with "S" and under the law as it was, the man whose name began with "A" had a distinct advantage.

Mr. Cyrus Leland, mentioned above, has been in politics in Kansas since its organization as a State, and spoke generally in favor of the Kansas law. He said that he advocated it and earnestly sought its passage for the express purpose of getting rid of Senator Long and believed it to be a good thing, because it had accomplished that object. "Q. But aside, Mr. Leland, from having brought about the defeat of Mr. Long, what evils do you think it has corrected? A. Well, it has laid him on the shelf and that class of men ought to be laid down on the shelf. Q. I know, but aside from that? A. There is more like him, some of his own gang and that is a good thing, I think. It accomplished that" (1085).

Mr. Leland did not see how a man could conduct a campaign for the nomination of Governorship or State office upon $4,000 or anything like it. He thought that a man ought to have more than one term, if he stands the Primary Law (1087).

Mr. J. N. Dolley, Speaker of the present House and Bank Commissioner of the State of Kansas, spoke as an earnest advocate of the law (1090). It seems that in the Senate at the time of its passage, the vote was quite close; there were only three Democratic members of the Senate, one of whom supported the bill. The controversy was practically between Republicans. Mr. Dolley thought the Republican party as a party is in better condition in Kansas than it has been for the past several years, although the *personnel* of the organization has changed since the last controversy. He spoke along the sames lines of Governor Stubbs, and advised that candidates for nomination should file statements of their expenses, the same as candidates for election. He thought that the Democratic party was badly demoralized; the strengthening of the Republican party naturally weakened the Democratic party.

Mr. Frank G. Drenning, a prominent resident of Topeka, deprecated the participation of Democrats in Republican primaries and said that there is absolutely no doubt that a well organized effort among the Democrats to vote the Republican ticket could have changed the nomination of United States Senator without any trouble whatever. He believed that the system would be better if they had a second and third choice.

Observations on the Kansas System.

As stated at the outset, it is extremely difficult to draw any very valuable lessons from the one test of the Primary Law in Kansas. There are a few facts, however, which were made quite prominent in the course of our investigation:

1. The law is generally popular and it probably could not be repealed at the present time, although amendments for the purpose of obviating the plurality nominations are being urged and a more strict party enrollment is generally believed in.

2. The cities of the State are quite generally adopting the Des Moines system of government and doing away with any form of primary, caucus or party nomination in municipal affairs.

3. The system is State-wide and includes substantially all the officers to be nominated in the State, district, county and township, so that the number of names appearing upon any primary ticket because of the number of elective offices is so very great that it is quite impossible for the average voter to exercise any intelligent discrimination except upon the head of the ticket.

4. The percentage of participation in the cities and towns in the majority party was very large, and in the rural districts was very small, and the percentage of participation on the part of the minority party was also exceedingly small.

5. Under this system, there is no opportunity for the minority party to await the nomination of the majority party and then select a candidate, who, either because of his locality or some other peculiar strength, can oppose the majority candidate with any reasonable probability of success. The minority party having as a rule no contests for the nomination are obliged to file the names

of their candidates so many days before the primary that the Republican candidates know exactly whom they will have to oppose while they are carrying on the primary campaign.

6. The party organization or machine is disintegrated and there is substituted the personal machine of the successful candidate or the head of the ticket. This machine is maintained by the appointment to public position of the supporters of the successful candidate and furnishes him with a strong organization interested in securing his renomination and continuance in office.

7. If a State-wide direct primary nomination system is to be adopted, the Kansas Law is as simple and perfect as any, if the rights of the parties are better safeguarded by a party enrollment, and if candidates' expenses are limited and they are required to file an itemized statement of their expenses after the primary election.

8. There is no opportunity under this law, except in the minority party, for the office to seek the man, but the successful candidate must be active, aggressive, and a candidate who is willing to conduct a vigorous campaign in his own behalf against members of his own party, making his own platform for the purpose with such promises of reform and popular legislation as will convince the people that he can be of greater service to them than his adversary.

A central bureau of information is organized for the distribution of printed matter and committees organize in all the counties of the State for the furtherance of his personal campaign. The conduct of such a campaign, in our opinion, does not tend to cement the party membership around party principles that may be formulated by the party organization in convention assembled.

IOWA.

The Law.

The Iowa Primary Election Law was passed in 1907 and the first primary was held under it on the first Tuesday after the first Monday in June, 1908, so that the Iowa experience under a statutory primary law is substantially the same as that of Kansas. The law provides that it shall be held biennially after the first primary for the nomination of candidates for such offices as are to be filled at the general election in November next ensuing, except candidates for the offices of judges of the Supreme, District and Superior Courts. It also applies, for the purpose of ascertaining the sentiment of the voters in the respective parties, to United States Senator, and in presidential years includes electors. With the exception of the provisions relating to party affiliation, the nomination of judges, the provisions for challenge and some minor changes in the nomination paper, including an affidavit to be sworn to by the candidate, on whose behalf the petition is filed, and also excepting the requirement that a candidate for a county, district or State office must receive not less than thirty-five per cent. of the votes cast by the parties for such office to entitle him to a nomination, the general provisions of law are substantially the same as the Kansas law.

At the first primary each voter received his party ticket called for and the clerk thereupon entered his declaration of party affiliation, substantially the same as required under the Luce Law in Massachusetts. Thereafter he becomes listed on the poll books as a member of that particular party and while residing in the same voting precinct, need not declare again his party affiliation, unless he desires to change it; but in case he desires to change, he may, not less than ten days prior to the date of any primary, file a written declaration with the County Auditor stating his change of party affiliation, and first voters and those who have changed their residence affiliate on primary day upon application to the election officers. If a voter is challenged, he may take the oath that he has in good faith changed his party affiliation and desires to be a member of ———————— party, and then becomes entitled

to vote the ticket he calls for. The names of the candidates are placed upon the ticket in alphabetical order, but the law as originally passed was amended at the last session of the Legislature by adopting the rotating system, so that the names of candidates do not appear at all times in the same position upon the ticket, but are rotated from top to bottom in accordance with the rule fixed by statute. This was done after the primary of June, 1908.

The County Committee is elected at the primary made up of delegates according to a ratio adopted by the party County Central Committee and these delegates are required to meet in convention on the third Saturday following the primary election. The conduct of the convention is controlled by statutory rules, and after organization, is authorized to make nomination of the candidates for the party for any office to be filled by the voters of the county when no candidate for such office has been nominated at the preceding primary election. This would be the case where no candidate received thirty-five per cent. of the vote. This convention also nominates candidates for the office of Judge of the District Court in counties comprising one judicial district and selects delegates to State and district conventions and elects a member of the party Central Committee of these districts.

In Senatorial, Judicial and Congressional districts composed of more than one county, district conventions are likewise held and with like authority; it may adopt party platforms, but is not required to do so.

The State convention is composed of delegates chosen by the county convention in the manner above stated and it also has the power to nominate for State offices, when no nomination was made at the primary, and also nominates candidates for office of Judge of the Supreme Court. No proxies are allowed at any of these conventions, but the delegates present from a county may cast the full vote thereof. The State convention is required to formulate and adopt the State platform of the party it represents and to elect a State Central Committee.

It will thus be seen that in this respect the Iowa law differs from the Kansas law in that the State convention in Kansas is made up of the county chairmen and the candidates for all offices,

who have been nominated at the primary, and they adopt the platform.

The provisions of the act govern the nominations of candidates by the political parties for all offices to be filled by direct vote of the people in cities of first class and cities under special charter having a population of over 15,000, unless they have adopted some other plan of city government.

The expenses of the primary election are borne one-half by the county and one-half by the State, the Board of Supervisors being required to audit the entire expense and certify to the executive council.

Every candidate for any office to be voted for at a primary is required within ten days after the holding of primary to file a detailed statement of his expenses. The statement must also show from whom the money was received and purposes for which paid, etc.

The Operation and Results of the Primary Law in Iowa.

Prior to the enactment of the Primary Election Law, many counties in the State of Iowa, under party rules and regulations, had a system of more or less direct nomination, some counties and districts nominating by direct vote and others electing delegates. A majority, however, rather than a plurality was usually required to nominate.

There was no urgent demand throughout the State for the enactment of a uniform primary law, as the methods under which the parties within themselves were nominating their candidates for office were quite generally satisfactory. One witness stated to the Commission that the Legislature adopted the new law because other States were enacting such laws.

Shortly prior, however, to the enactment of this law, a very disorderly and disgraceful campaign for the nomination of Congressman in the Des Moines district, the Seventh, was conducted, and attracted State-wide attention. It is told that a band of twenty-five or thirty enthusiasts went from one precinct caucus to another and voted for the delegates favoring the candidate of their choice. Charges and counter charges of bribery were made and to this one proceeding, more than any other, is attributable the enactment of the Uniform Primary Law of Iowa. The Con-

stitution of Iowa, like Pennsylvania, makes uniform legislation necessary.

The first primary election held under the act, June 2, 1908, was of unusual interest, because of the fact that it was a presidential year, and there was a sharp contest for the office of United States senator between Senator Allison and Governor Cummins. As is known, Senator Allison was successful, but died before his election by the Legislature, and at the general election Governor Cummins, by special act, again contended for the popular approval of his candidacy against Mr. Lacey, and was successful.

All State officers had to be nominated at the June primary; the consequence was that a very large Republican vote came out to the primary.

Some of the figures from the *Iowa Official Register* for 1909 kindly furnished by Mr. W. C. Hayward, Secretary of State, will be of interest:

The Republican primary vote for Governor was 181,863.

The Republican vote for Governor at the election, 356,980, showing that the Republican primary vote for Governor was about seventy per cent. of the vote cast at the election.

The Democratic vote for Governor was, 50,065.

The Democratic vote for Governor at the election was 196,929, showing that the Democratic primary vote was but twenty-five per cent. of the vote cast at the election. A similar comparison is made in a few of the Congressional districts taken at random.

In the Third district the Republican primary vote for Congressman was sixty-four per cent. of the vote at the election, while the Democratic primary vote was but nineteen per cent. of the vote polled at the election.

In the Fourth Congressional district, there was a contest for nomination in the Democratic primary, but the vote cast was only twenty-five per cent. of that polled at the election.

In the Fifth Congressional district, sixty-eight per cent. of the Republican vote polled at the election was cast at the primary and only seventeen per cent. of the Democratic vote.

The Sixth district is very close and there was a contest in the Republican primary, but none in the Democratic; the former cast fifty-seven per cent of its election vote and the latter twenty-seven per cent.

An examination of the primary returns will disclose the fact that a much larger percentage of the vote is cast at the primaries in the cities and large towns than in the rural districts, the conditions being quite similar to those found in the State of Kansas.

The new Primary Law of Iowa has its friends and staunch supporters, not so much on account of what it has accomplished as for what they hope it will accomplish, when they have had sufficient time to give it a fair trial.

There are also prominent citizens who oppose it upon principle and find little in it to commend.

The Committee was very fortunate in getting in touch with many of these citizens, some of whom might be regarded as politicians in the better sense and many of whom had no political aspirations.

Mr. Lafayette Young, editor and proprietor of the Des Moines *Daily Capitol,* and a State Senator for about twelve years, expressed himself generally as favoring the law. It was he who said that the Iowa Primary Law was more due to disturbances in the way of unfair voting and unfair action of the election judges, and things of that nature in the city of Des Moines, than to any or all other influences combined, and in that connection referred to the charge that many voters participated in different primaries. This was due largely to the lack of local control. He thought that their system of enrollment was imperfect and said that there were strong objections to making it any more drastic, the criticism being that it deprived the voter of his constitutional right to affiliate with any party of his choice at the time of the primary. "You might," said he, "not always need this system, but when you did need it, it would be handy to have; and it will ultimately tend toward the destruction of political parties, in my judgment. But the country has seen many times the destruction of political parties without any danger to it" (1120). Mr. Young expressed his belief in government by parties and in explanation of his statement that the Primary Law was still desirable, notwithstanding it tended to the destruction of political parties, he said he meant "different alignments and reorganization of parties and not destruction" (1120). It raises up factional differences and divisions in the party itself and has an effect on party organization, as it enables the minority

party to nominate without regard to availability; while the majority party makes its nominations out of strife, as the result of strife, the minority makes its as a result of harmony through getting together. The minority party takes advantage of the strife in the majority party to defeat the majority party at the election sometimes. In the campaign for United States Senator "we had as hot a debate throughout the State as we ever held in a contest against the other party." "It gives more power to the press, which is not objectionable to newspaper men, who feel that they ought to run the country anyway. I speak of that — I am a newspaper man." * * * "Among other criticisms, the primary system gives the candidate an opportunity to make a great many promises to the voters, in the excitement of his search for honors, and he takes advantage of the situation. I mean that he becomes sensational and enthusiastic in telling the 'dear people' what he will do. Of course, we have always had that more or less between the parties, but have never had it as a family affair until we had our primary" (1122).

Mr. Young also condemned the long ballot and numerous candidates and said that it was impossible for the average voter to exercise any discretion on more than two or three offices. The results showed that there was a large falling off in the vote as you went down the line of candidates and also where there were numerous candidates that those who headed the ticket had a distinct advantage, so much so that the law had since been amended as above stated.

The judges of courts were excepted from the Primary Law for the purpose of keeping the office out of politics as far as possible. There is no opportunity under the primary of distributing the ticket geographically.

Mr. Harvey Ingham, editor of a morning and afternoon daily known as the *Register and Leader,* and the afternoon *Tribune,* at one time postmaster of Des Moines, and Regent of the State University, coincided in his views with those expressed by Colonel Young, and particularly emphasized the disgraceful contest in the Seventh Congressional District, in which Des Moines is situated, as one of the reasons for the adoption of the Primary Law. The change in Iowa was from an unregulated and absolutely unlegalized method of nominations to a legalized method (1144).

It will also be noted that there was adopted simultaneously with the Primary Law, the Corrupt Practices Act, and at about the same time the Personal Registration Act in cities.

Iowa is an agricultural State, and there is only about 2 per cent. of illiteracy. The largest city is Des Moines with 75,000 and three or four other cities with twenty or thirty thousand, with almost no foreign element. Mr. Ingham also said that there was an undue advantage to the man whose name begins with "A," where the names appear upon the ballot in alphabetical order. He strongly advocated the elimination of so many elective offices and said that it was impossible for any man to make an intelligent discrimination. In the recent State election, the attention of the whole State was centered upon United States Senator and Governor, with local contests for Congressmen; the other State officers escaped attention.

He strongly advocated "leadership" and distinguished this from so-called machine organization (1153). He thought it would be impossible for the successful candidate to build up a machine upon the patronage principle by appointing to public office those who supported him at the primary.

The following witnesses made voluntary statements before the Committee, condemning the law upon principle, and calling the attention of the Committee to its alleged failure to accomplish any good in the State of Iowa. None of these gentlemen were politicians in the sense of being candidates for office, but all of them were interested as citizens of Des Moines and of the State of Iowa in political conditions. These men are Mr. Charles A. Finkbine, a lumber dealer connected with the Wisconsin Lumber Company; Robert Fullerton, also a lumberman, and president of the Civic League of the City of Des Moines, and recently a member of a committee that went to Washington as a tariff expert before the Committee on Ways and Means while they were framing the Payne Tariff Bill; James B. Weaver, Jr., a lawyer; Sydney Foster, life insurance agent, and connected with the park system of Des Moines; Mr. Jewett, business man; James C. Davis, an attorney; J. L. Powell, whose business does not appear in the record.

Mr. Finkbine stated: "We had just as good people, just as honest officials then and we had just as good people and just as

honest State and county officials under the old caucus system of electing our officers as we have had since the adoption of this new Primary Law." It is very expensive to make a State campaign; the average voter knows how he wants to vote for one or two offices and for the rest of them he is absolutely ignorant and votes for the first man he comes to. Mr. Finkbine advocated the safeguarding of the primaries and conventions by law and deprecated the apparent fact in the last State primary that many Democrats voted the Republican primary ticket. He stated the fact that the two Republican candidates for United States Senator who were voted for at the same time as the general election received in the aggregate in Polk county, in which the city of Des Moines is situated, 2,600 more votes than the Taft electors received at the election held the same day, which fact appears from the records of the Secretary of State's office. So far as he could observe, it has not changed the spoils system a particle. The man who succeeds distributes the patronage to his friends. Referring to the Des Moines commission system, Mr. Finkbine said it was in no way related to the direct system; that the intention was to eliminate national party politics absolutely from domination in local affairs. He stated, however, an interesting instance of newspaper influence in the introduction of the Des Moines system. A self appointed committee of 500 representative citizens from all business and professional lines worked out the plan of government and in order to make it a great success the first year, suggested the names of five prominent citizens, who would be unwilling to become candidates or make a personal canvass for the position, as members of council for the first year. Not one of them was nominated and when asked how that happened, he replied, "Too much Harvey Ingham and Lafe Young," referring, of course, to the prominent newspapers edited by these gentlemen. He said that a self seeking campaign followed, carried on by candidates, who themselves sought the offices, something after the experience of Boston in the recent city election.

Mr. Fullerton concurred in the views expressed by Mr. Finkbine and added that the new law had proven very profitable to the newspapers in the matter "of public printing of private virtues."

Mr. Weaver concurred in a general way with the statements of

Mr. Finkbine and Mr. Fullerton, but said that the law was too recent to form any positive conclusion as to its merits or demerits.

Mr. Foster was very positive in his conviction that the direct primary method is calculated to disorganize the very best elements of the political party. He said that opposing candidates in the Republican party made a practice of sending postal cards to Democrats throughout the State urging them to vote for certain individual Republican candidates in the primary, and advising them that it was nobody's business to what party they belonged. This postal card system was very general and it had a tendency to break down the regard the people had for their own political organization. He claimed that there was no State in the Union better managed than the State of Iowa; that the primary system would keep burning the embers of discontent and distrust and that while he was no pessimist, he regarded the vote of the Republican party in Iowa as very doubtful because of its breaking up into factions and discord as a campaign arises.

Mr. Jewett simply concurred in the statements of Mr. Finkbine and Mr. Foster.

Mr. Davis stated that his objection to the Primary Law is that it entirely falls short of its alleged purpose, in that it precludes every sort of independent and intelligent action by the individual voter. In the last campaign he had had occasion to travel about the State at various points where there were assemblies of representatives, while the campaign was going on, and as a matter of curiosity, asked citizens present to state the names of principal candidates for the leading State offices, for which they were expected to vote at the primary, and that it is not exaggeration to say that unless they had a candidate in their political locality not one man in twenty could name the different candidates that they were expected to vote for, or qualifications, special or otherwise, which each of the conflicting candidates had for office. The attention of all was directed to the candidates for Governor and United States Senator, but as to the others upon the State ticket, he could not tell who he was voting for or whether he was voting for any particular one, and therefore, voted for the first name upon the ticket, and the lucky man in that position is nominated. As an illustration he spoke of the primary ticket in Polk county in which Des Moines is located. The ballot contained more than

150 names and it was an absolute impossibility for the local people in Polk county to select with any sort of discrimination or individual judgment the various candidates. "The purpose of the law," said he, "is not accomplished in that a State-wide primary covers too large a territory for the individual voter to inform himself so that he can vote intelligently and make a special selection of a large number of candidates that come from all over the State." For these reasons, he favored the convention with legally elected delegates. If the territory was increased the difficulties mentioned would be multiplied and increased (1192, 1193). "In a convention system, some sort of fair division of candidates over the State can be made, but in the primary there is no opportunity for a concert of action" (1194.)

Mr. Davis regarded the State of Iowa as an ideal State in which to test the efficiency of such a law, as the population was only about 2,300,000, very evenly divided over the State. Substantially no manufacturing industries, practically all farmers.

Hon. W. C. Hayward, Secretary of State, before referred to, also furnished the Committee with a statement of the public expense of conducting the first primary, in detail by counties. This statement is filed with the exhibits. The total amount for the first primary was $164,000.12. The law has been changed since the enactment of the Primary Law so that hereafter the counties pay the entire expense.

He also furnished a few sworn reports of campaign expenses in the primary election of June, 1908. The largest amount shown is $4,329.83 by Mr. Good, nominated for Congress in the Fifth district. The successful candidates for Congress expended from $1,000 to $4,000. The personal expenses of candidates for Governor were very small. Mr. Carroll placed his expenses at $797.22, Mr. Garratt at $1,177.50 and Mr. Hamilton at $929.37. These candidates are all Republican candidates. Sample primary ballots were also furnished.

The largest part of the public expense, said Mr. Hayward, was paid to the newspapers, and they also received large sums from candidates for personal advertising.

Mr. Hayward thought that Iowa had not had enough experience under the Primary Law to determine altogether its full benefits

or many of its advantages. One defect noticeable to all was the inability of the voter to discriminate where so large a number of candidates were upon the ticket, but he thought that that had been obviated to some extent by the adoption of the rotating system in placing names upon the ticket, which does not help the voter to express his choice intelligently, but gives to all candidates the same advantage of position.

Mr. A. U. Swan, Assistant Secretary of the Executive Council, gave some figures as to the expenses of conducting a primary, corroborating the statement given by the Secretary of State, and computed from these figures that there was practically $120,000 of the amount paid to the printers.

Hon. W. L. Eaton, one of the Railroad Commissioners, a resident of Osage, Mitchell county, Iowa, appeared before the Commission and stated in substance that there are without doubt advantages in the Primary Law, but there are also inherent defects in the whole theory of the Primary Law. He said that while he belonged to what might be fairly termed a faction in Iowa, which was very much in favor of the Primary Law, he had never been in favor of it, and his mental attitude now was one rather of toleration and consent on account of circumstances which have arisen rather than enthusiasm about it. Mr. Eaton lives in a county that is entirely rural, having no cities. He said that they had never had any difficulties or abuses of the convention system in his county. It had always worked well. He had been interested in politics for quite a number of years as a member of the Legislature and Speaker of the House, and had observed the workings of both the convention and primary systems to quite a considerable extent. "I believe," said he, "there is an inherent defect in the entire primary system and I dislike to even say this in public, because, as I say, on account of circumstances, I have been compelled to bring my mind to assent to it and consent to it rather than any other way" (1229).

"Every State officer, who had any contest, whose name appeared first on the ballot was nominated." "They are all elegant gentlemen and all fitted of course for the positions they occupy, but it was without any regard to acquaintance or fitness or experience or anything of that kind" (1230). "The inherent defect, I believe, in the Primary Law is that it is based upon an erroneous supposi-

tion; that is, that the people are informed; they are not; there is not any use of criticising them; you have got to take them just as they are. They don't know the men who are candidates for State offices. This does not apply to a county primary. Where the conditions are such as to require it, I believe the county primary to be a very wise thing. There the people are acquainted. They know their candidates; they discuss; they talk about them in the stores and everybody knows who the candidates are; they vote intelligently" (1230). He thought that the Primary Law had been a great benefit in cities of a certain class. If a county primary law was to be adopted, he thought it should be optional with the voters of the county.

Observations on the Iowa System.

The conclusions of the Committee from the investigation of the Kansas system may be referred to as expressing substantially the results of our observation of the working of the Iowa system under the first primary.

Iowa is an ideal state for the operation of any system of direct primaries, as the education and intelligence of its people is unusually high, the population is quite evenly distributed over the State, the farmers are wealthy. The fact that there is almost no foreign population and that the largest city is not much above 75,000 makes the practical operation of a direct system of nominations at least feasible, if not desirable.

The same conditions, however, under a legalized delegate and convention system would produce much better results than could be expected from such system in a district composed of many different foreign elements and where an intelligent interest and co-operation in political affairs is lacking.

The elimination from the operation of the primary system of nomination of judges of the Supreme Court is desirable, and the requirement that no candidate can be nominated at the primary unless he received at least 35 per cent. of the vote cast for all the candidates of his party is, in our opinion, still more desirable; this percentage might even be increased to advantage, as it will tend to prevent the nomination of undesirable candidates through the expenditure of money and great personal activity, and by procuring a multitude of candidates for the office contended for

in order to weaken the support of some strong and popular adversary. In such case the nominations are made by the party conventions.

If the direct State wide nominations system is continued, the splitting of the majority party into hostile factions and the disintegration of the minority is sure to result. If the theory of some advocates of the direct system that there should be no party lines except in national affairs is the correct theory of government, and that national parties, as such, have no place in the administration of State or local affairs, then the State-wide primary of Kansas and Iowa may be confidently relied upon to accomplish this result. It is unnecessary to repeat here the conclusions stated after the investigation of the Kansas system which apply to Iowa as well.

The State convention, composed of delegates who formulate the platform, instead of the candidates who have been nominated at the primary, is a very desirable feature and preferable to the Kansas system. The preservation of the county and district conventions is also advantageous.

MINNESOTA,

The Law.

Minnesota has had a primary law with direct nominations since 1901. It applies to all elective officers, except State officers, and members of school, park and library boards; also except towns, villages and cities of fourth class.

The feature not found in other states investigated is that the primary day is the first day of registration, seven weeks before the election, so that the registration officers also record the primary vote, thus saving a part of the public expense.

Candidates for office are not required to procure petitions, but merely file an affidavit stating the desire of the affiant to become a candidate of the party of his choice and setting forth his party allegiance and that he voted for a majority of the candidates of this party at the last election, or intends to support the ticket at the coming election.

A filing fee varying from ten to twenty dollars is required, evidently for the purpose of preventing a multiplicity of unworthy candidates.

Separate ballots are printed for the several parties and the names of candidates are entered thereon under the offices to be voted for in alphabetical order, but an amendment to the law as originally passed provides for a rotation of names, to overcome the apparent advantage to the candidate whose name appears first under the designation of the office.

There is no system of enrollment and the voter is only required to make a party declaration when challenged.

Primaries for the election of delegates are held at such times as party rules may fix, under, however, statutory limitations. The statute also governs the conduct of conventions, when assembled. State conventions nominate state officers, including justices of the Supreme Court.

The Operation and Results of the Primary Law in Minnesota.

The sessions of the Committee were held at the capitol building in St. Paul, and several prominent citizens of Minneapolis also attended and gave us the benefit of their experiences in Minneapolis and elsewhere.

Mr. W. W. Heffelfinger, a shoe manufacturer of Minneapolis, a Republican, who has been to some extent identified with political activities in Minnesota, thought that the results of the operation of the Primary Law in this State had not been satisfactory. The State has a population of about two millions with a normal Republican majority of from 30,000 to 50,000.

Mr. Dwinelle was the framer of the law and was beaten in his candidacy for the Legislature the first time it was tried; he was regarded as a very strong man, against whom there would probably have been no opposition under a convention system. It is the common practice for candidates before the primary to make a very personal campaign, spending money, treating voters and in making himself generally popular with the element in the cities who can be induced to go out to the primary. Mr. Heffelfinger cited the fact of the defeat on several occasions of Republican candidates for mayor of Minneapolis which he attributed to the bitterness engendered by the primary contests. He stated that the vote at the primary was not increasing in the same proportion as the population; that while there had been an increase in population of 150,000 people there was practically no increase in attendance at the primary. Voters tired of the personal contests of party members before the primaries. It is also simply impossible to make any geographical distribution of the ticket, or distribution according to nationality under this system. There are a good many Scandinavians, and upon the tickets sometimes there appeared an excess, so to speak, of the foreign element. The necessity and expense of making two campaigns deters the best men from undertaking to secure public office. Upon one occasion in Minneapolis the Democrats succeeded in nominating Dr. Ames, a Democrat, on the Republican ticket, and then beat him at the polls. Members of one party were in the habit of voting the primary ticket of another, either to nominate a weak candidate

or to help a friend. Party organization has been split all to pieces by this method.

Although Governor Johnson recommended the extension of the system to State officers and United States Senator, it was not taken seriously by the Legislature and there appears to be no strong demand in the state for such extension.

Mr. Heffelfinger will be recalled as a prominent member of the Yale football team some years ago.

Mr. Hugh T. Halbert, an attorney, who is president of the Roosevelt Club of St. Paul, and at one time chairman of the Republican City Committee, but now claiming not to be identified with any party, and particularly interested in an organization known as "The Voters' League," disagreed quite radically with Mr. Heffelfinger. While Mr. Halbert declined to express an opinion as to whether better officials were obtained for the public service under the direct nominations system, he was quite convinced that there was an educational value in the primary system which more than compensated for the trouble and expense of making nominations by this method.

The Voters' League is a non-partisan organization that has come into existence since the enactment of the Primary Law. Its aims and objects are to instruct voters by way of suggestion after the names of candidates are published and before primary day. The league is supported by voluntary contributions of patriotic citizens, and about a week before the primary is held the league publishes over the signatures of a selected committee the names of the candidates, whom the league regards as most worthy and best fitted for the offices sought for. The existence of the league is due to the fact that without such information the mass of voters would vote blindly or upon the personal appeal of candidates and frequently unworthy and incompetent men would secure a plurality and become the party nominees.

Mr. Halbert advocated the extension of the system to State officers and United State Senators, and claimed that the attendance of voters at the primary under this system was much larger than under the former caucus and convention method. He would absolutely eliminate party organization and partisanship from city and county offices. He declared that he believed in a pure Democracy as distinguished from a representative government and

also believed in the "initiative," "referendum," and "recall." He attributed the defeat of the Republican candidate for governor practically to the bitterness of factional fights in the primaries, but also to the magnetic personality of Governor Johnson. The factional fights started in the primaries are carried into the election and frequently result in the defeat of the candidate of the majority party, who was successful at the primary, and instanced the case of a mayor of St. Paul, a reputable business man, who was recently defeated. Mr. Halbert conceded that the majority was not always right, because they sometimes failed to discriminate between honest and dishonest public servants; he thought, however, that in the primary, the voters would discriminate and be swayed by patriotic motives, while at the election that followed, the same people were frequently swayed by factional prejudice (1288). Mr. Halbert strongly supported and commended the action of the Minnesota congressmen, who, with one exception, voted against the recent tariff bill.

Hon. Julius Schmall, Secretary of State since January, 1906, and re-elected as Republican candidate in 1908 at the same election that the Republican candidate for governor was defeated by Governor Johnson. Mr. Schmall strongly condemned the primary law in Minnesota. The practice of the minority party in participating in the majority party's primary is a great evil and the operation of the primary law at the present time is such that it is not getting the best men for the various offices in the Legislature and other places. Professional and business men absolutely refuse in almost every case to enter into a contest where they are obliged to pass through a primary and general election.

In regard to the voting by Democrats of the Republican primary tickets, where the Republican party is the dominant party, Mr. Schmall said that so far as Minnesota is concerned, with eighty or eighty-five counties having large Republican majorities, he did not believe the enrollment system proposed in New York would be of any value whatever, and had communicated his views upon this subject in correspondence with the present executive of New York State.

Several bills were introduced in the last Legislature in Minnesota, having for their object the prevention of this practice by absolutely requiring that a party, in order to be entitled to go

upon the election ballot as a party and to have a separate primary ballot in subsequent primaries, must cast a certain percentage of its registered vote at the primary election; it was thought that the fear of being eliminated as a party would induce Democrats to vote their own ticket, so as to be certain that the required percentage of votes was cast.

In the Legislature, the Democrats were unanimously opposed to it and a number of members of both branches of the legislature of the majority party were opposed to the primary system entirely and the amendments failed. He thought that a 20 or 25 per cent basis would keep the members of each party in their own party at the primary contest and would in a measure alleviate that difficulty. A party enrollment of a year in advance of the primary would be a good proposition, in the opinion of Mr. Schmall.

Mr. Schmall also maintained that as a result of the working of the primary system, it became absolutely necessary to adopt the rotating system in the arrangement of names upon the primary ballots and that now every other ballot was changed, so that in a case of five candidates, the man whose name was at the head of the ticket upon the first ballot would appear there on every fifth ballot.

In regard to the expense to candidates, Mr. Schmall, who was a newspaper man, said that the cost of public announcements, sending out literature, etc., of a candidate for a member of the Legislature, where he was opposed, is greater than what he actually receives as a salary for the session. There are from ten to eighteen newspapers in many of the counties of the State and a candidate is obliged to get his announcements in each one of these papers and to patronize in some way or other, all of them. He cited several cases in the State where young men, as a result of the primary system, have become financially as well as morally bankrupt.

The secretary had no data from which we could determine the public expense of holding the primary, as each county takes care of its own expenses and there is no report made to the Secretary of State.

Hon. W. W. Eustis, former mayor of the city of Minneapolis, and a Republican candidate for Governor in 1898, came from his home in Minneapolis in order to give to the Committee his

experiences under the operation of the Primary Law of Minnesota.

He said, in substance, that the enactment of the Primary Law was due to a feeling that the people were not taking as much interest as they ought to in the matter of nominations and that if you could get larger numbers of them to take an interest that better nominations would probably result. The caucuses and conventions were not regulated by law and while there was some complaint of sharp dealing and sharp practice in the caucuses and conventions, the great object was getting more people interested in making the nominations. There was not much heated discussion when Mr. Dwinelle introduced the Primary Law, and it was easily passed; he was defeated at the first primary under it.

There was no claim that the State was boss ridden and that nominations were dictated, for Minnesota never had a boss. The mayor thought sometimes it would be better if they had a political boss in the State.

While he thought the Primary Law was better than the caucus system, as the caucus was run previously, it has its drawbacks like everything else that is human. He cited one of their first experiences in Minneapolis where the Democrats nominated a Democrat upon the Republican ticket for mayor, and in this case he was elected.

It is difficult to get self-respecting people to run for office and take the chance on the character of a primary fight, which gets to be very intense and oftentimes so bitter that the bitterness continues into the election and defeat follows. The fight is just as bitter as it would be between candidates of different parties, and this bitterness furnishes ammunition for the opponents. In Minneapolis, the Democratic party, being considerably in the minority, have avoided contests and if there has been a hot fight in the Republican party their own candidate used the arguments that have been used by his opponent in the party fight, and in that way the Republicans have lost one or two mayors in the city.

The operation of the law has tended in Minnesota to disruption and disintegration of the majority party and the building up of factions. The evil results from the multiplicity of candidates are common; in many cases they have as many as twenty candidates

for a single office, some of them entirely unfit for the office filed for (1326).

When Mayor Eustis was asked by a member of the Committee for any suggestions which would prevent the bad results of the operation of the law in Minnesota he was unable to make any, but said that he hoped that Minnesota might get some benefit from the experience and investigation of this Committee and requested a copy of the report and expressed the belief that it would help them much in the matter of legislation upon the same subject.

So far as the nominations are concerned, he could not say that the primary had produced any better nominations and he would not say that they were any worse; that there was no material change.

The primary law applies to the nomination of district judges and there is considerable scrambling for that position. At one primary fifteen petitions were filed and three nominated.

In conclusion, the mayor said that from what he knew of the working of the primary law in Minnesota, and from what he knew of the conditions in New York city, he was inclined to think that better results could be obtained under the convention system than under the primary system.

Mr. S. P. Jones, a resident of Minneapolis, and executive secretary and agent of the Voters' League before mentioned, gave the Committee more in detail the work of this non-partisan body.

The Democrats claim it is a Republican organization and Republicans claim it is destroying the Republican organization, and while it has worked to some extent to break up and confuse party organizations locally, Mr. Jones said this was not intentional. There was no such organization before the enactment of the primary law, for its effectiveness was due to the fact principally that it reaches the public twice, at the primaries and at the elections. Its work is to recommend that certain candidates be nominated or to advise the voters to support certain candidates who may be seeking nomination or election.

He believed that the Voters' League has accomplished considerable in the matter of selecting better candidates for office than had been previously selected, and the reason for its existence

and work was the fact that the primary system was not selecting suitable candidates entirely.

Mr. Jones stated that he had prepared for the executive of this State a table showing the participation of voters at the primaries and that under the new system from 75 to 95 per cent in the city of Minneapolis had participated, while under the old system not more than 15 or 20 per cent of the voters of the Republican party participated in the caucuses. Its percentage is determined by the number of primary ballots cast compared with the Republican vote at election or the registration, but did not take into consideration the Democrats who voted the Republican primary ticket. He also contended that the educational value of the primary was great in importance and that the people are taking more and more interest all the while. If there were more primaries and more elections, the interest would be still greater. The majority party primaries have increased quite largely in attendance, while the minority party primary has not shown any marked change; there is no doubt that many Democrats vote for Republicans in many primaries and vice-versa (1357).

He cited an instance where the saloon element of the Democratic party wanted to nominate a man, who would be favorable to their interests in the Republican party and succeeded in doing so, so that if a Republican should be elected, they would have a friend at court. Bitterness engendered in these contests at times undoubtedly has been a factor in the final election. Mr. Jones does not regard direct primaries as a finality in municipal affairs, but believes it to be a step in the right direction, and would welcome the day when there is but one election, entirely non-partisan, both in municipal and county affairs. He said that the "initiative," the "referendum" and the "recall" is the only salvation of our cities; that direct nomination is one important step in securing this desired end in municipal and State politics and everything else is boy's play in comparison (1359). This is the only way to obtain correct legislation and make the representatives directly responsible to the people and make it a people's government. He does not believe in party government by parties, nor the responsibility of nominees to parties, and of parties to the people (1360).

And in regard to the expense incurred by candidates, while

admitting that there were some men who spent a great deal of money he did not believe it was necessary; that many worthy men with small means had succeeded in obtaining nominations. The electors of the party do not feel themselves bound with the results of the primary if their man is defeated and vote for his opponent on the other party ticket. The direct primary is thoroughly demoralizing; it is especially demoralizing in the dominant party and makes strongly for independent voting on local issues, which, Mr. Jones says that he himself and his organization think, is a good thing and one of the reasons why he advocates it (1364).

Mr. Jones stated that he formerly lived in Binghamton, N. Y., and had been familiar with New York politics for a great many years; that he thought New York had a harder proposition than Minnesota and that the problems of the great cities were far more complicated than those of his own State.

Mr. John E. Kring, a resident of Red Lake Falls, Minnesota, and the State librarian appointed by Governor Johnson, expressed himself generally in favor of the Minnesota law and of its extension to State officers. He said, however, that the State of Minnesota had had good and satisfactory officers under the convention system, including Governor Johnson, who had been twice nominated and elected under this system.

It will be remembered that Minnesota has biennial elections and not annual elections as in New York, and Mr. Kring gave it as his opinion that where annual elections are conducted, the primary would keep the citizens in political turmoil for so long a period as to make it undesirable, and under such circumstances, he doubted the advisability of making it State-wide.

He said that the average man rebels against the idea that any one has authority to ask him what ticket he is going to vote or what party he has affiliated with, and that there is a large body of independent men in Minnesota that would be barred from the primaries under any rule which deprived them of the right to vote any primary ticket they desired (1377).

There is also a feeling that the right to select candidates upon any ticket regardless of party is theirs. So far as local or county bosses are concerned he thought the system had lessened their

influence to a considerable extent, but that he did not know of any so-called State boss.

Mr. J. A. Larsen, also a resident of Red Lake county, and a member of the Legislature at the time the Primary Election Law was passed, and now Assistant Secretary of State, was before the Committee. He said in substance, that the operation of the Primary Law in his county, which was of a rural character, was entirely opposite from what the members of the Legislature thought it would be when the law was passed, and in further explanation said that the prosperous farmers and merchants and business men from all localities met in convention under the old system and selected desirable men for the Legislature. The expense was much less and it was much easier to get certain men to run for such offices than under the present system. While he was not openly opposed to the Primary Law, he believed that unless it could be very largely improved, so far as the State of Minnesota is concerned, the present system is an evil one.

Mr. Larsen spoke of contests in his own county; in the last primary campaign, there was something like 2,000 votes cast, of which the Democratic nominee received less than fifty, but the successful Republican nominee was only elected by a majority of 99. The Democrats paid absolutely no attention to their own primary. In his own voting precinct, there were about 100 Republican votes cast and only one Democratic vote. This condition breaks up party ties. He also mentioned a contest for judicial nomination, in which there were four Republican candidates in a district very largely Republican and the contest was so bitter that the independent candidate came very nearly defeating the Republican at the election.

Many men in his locality have expended more money than the office paid in their contest for the nomination, sometimes including funds entrusted to their care, when the contest was so bitter that it was necessary for them to obtain money to carry on the fight. He stated also that the plurality system sometimes selected poor candidates who were nominated because of their activity and persistency.

Mr. W. J. Nolan, a Chautauqua lecturer and former member of the Legislature, thought that the Primary Law of Minnesota had

been satisfactory to the people, had worked out well, but not as well as some of its best friends hoped it would. Many attempts had been made in the Legislature to amend it, but an agreement could not be reached for the reason that a majority of the members were opposed to the Primary Law as an institution, and it was too expensive a system, and when any attempt was made to amend it, there was so much difference of opinion as to how it should be amended, the members were never able to get together.

He was inclined to favor the proposition to require any party to cast at least 25 per cent of its registered vote in order to maintain its party identity upon the election ticket.

He also thought that there should be some amendment preventing the nomination of a candidate by so small a percentage of the vote as sometimes happens where there are a number of candidates, mentioning an instance where a candidate got scarcely 25 per cent.

He could not give the Committee any information as to the working of the Primary Law in the country districts, his experience being entirely confined to Hennepin County, which includes the city of Minneapolis. So far as cities are concerned, he did not believe in any Primary Law or in party politics, but thought the commission system most desirable.

He expressed his belief in the "initiative," the "referendum" and the "recall," but did not think that the country was ripe for a pure democracy, nor that all the legislation should be enacted through the initiative or the referendum, but thought it desirable as a check on legislative bodies, and in cases where the Legislature has failed to enact a law, or has enacted a vicious law, he thought the people should have the right to repeal such law, and to insist upon an enactment of a law generally desired.

Hon. S. G. Iverson, a resident of Fillmore county, Minnesota, and State Auditor, spoke quite at length in favor of the Minnesota Primary Law, and advocated its extension to State officers. To a certain degree he believed in the initiative, the referendum and the recall, and thought it has a tendency in the right direction, as it was giving the people more and more control over their own affairs.

Observations on the Minnesota System.

1. The retention of the convention system for the nomination of State officers and justices of the Supreme Court has a tendency in the state of Minnesota to keep political parties more harmonious so far as State and national politics are concerned. The bitterness aroused in local, municipal and congressional primary contests in the majority party frequently brings about the defeat of the candidate who is successful in the primary contest.

2. The same conditions are apparent in Minnesota as have been found in the other states, and that is the practice uniformly condemned of the members of one party voting the primary ticket of another. The Minnesota primary is quite nearly an open primary, although the voter can be prevented from voting the ticket of another party by challenge.

The enrollment system would, we believe, help this situation to some extent, but the suggestion of such a system in Minnesota is unpopular, as are other suggestions for amendments desired by friends of the law, because the majority of the Legislature appears to be opposed to it upon principle.

3. The combination of the primary and the first day of registration is a saving of expense and has a tendency to bring out a larger vote to the primary. It will be noted that delegates to the State convention are not selected on primary day, but at party caucuses held at such times as the party rules may declare, but controlled by legislative enactment as to notice, method of procedure, etc.

We think the Iowa system of electing delegates at the primary is preferable.

4. The biennial elections in this and other states makes political disturbances and excitement less objectionable than where annual elections are held.

5. If a primary election law with direct nomination features is enacted the assistance of voluntary organizations such as the Voters' League, if conducted fairly and honestly, should be of

great service from an educational standpoint, and is found to be very desirable, and in fact quite necessary in the selection of reputable candidates for public office.

6. The requirement of the Minnesota law that a candidate at the primary shall pay a specified fee, from ten to twenty dollars, according to the importance of the office, undoubtedly has a tendency to prevent irresponsible and undesirable men from becoming candidates at the primary. The petition system of other states has little value, and the State or locality might as well receive the fee from the candidate as to have it paid to agents of the candidates for soliciting signatures to his petition.

7. Under the operation of this law there is no opportunity for geographical distribution of candidates or distribution according to nationality and the cities in a district largely control the nominations as against the rural portion.

8. There is a strong tendency toward the elimination of party politics in the administration of the affairs of cities and for the adoption of the so-called commission system.

WISCONSIN.

The Law.

The Primary Election Law of Wisconsin, providing for direct nominations, was passed in 1903 and the first State-wide primary held under it was in 1906. The primary election is held at the regular polling places in each precinct on the first Tuesday of September. All candidates for elective offices, including United States Senators, are required to be nominated in accordance with the provisions of the act, except State Superintendent of Schools, presidential electors, county and district superintendent of schools and judicial officers, but it applies to police justices and justices of the peace in cities of first, second and third class. In cities of the fourth class primary elections are not held except upon the petition of at least twenty-five per cent of the electors. Candidates for office may also, as in other places, be nominated by nomination papers after the primary.

A candidate can get his name upon the primary ballot only by filing a petition executed by a certain percentage of the voters, verified by affidavit of one elector. The names of the candidates are first placed upon the primary ballot in alphabetical order, and by a recent amendment to the law they are required to be rotated, substantially as provided in Kansas, Iowa and Minnesota, so as not to give any one candidate an advantage over another by reason of his place upon the ticket. Another amendment to the original law provides that the candidate must not procure more than ten per cent of the party vote in the district in which his petition is circulated and all signatures to his petition must be obtained within sixty days prior to the date of filing. The object of this is to prevent a candidate from getting an undue advantage over his opponents by getting a large petition signed.

Separate ballots are printed for each party and these are fastened together and handed to each voter when he applies for a ballot to vote at the primary; the voter then enters the booth as upon election day and marks one ballot, tears it off, folds it and returns it to be voted, and the blank ballots, which are placed in a separate box and destroyed immediately after the primary is

closed. There is no endorsement upon the ticket, so that each voter at the primary votes any party ticket he pleases, regardless of his party affiliations, and has the benefit of an absolutely secret ballot. It has been found, however, that because of this privilege members of the minority party very largely vote the majority party's ticket, and very frequently control the nomination. There is a strong sentiment in the State against depriving the voter of the privilege of the secret ballot, and an amendment has been recently passed providing that unless all the candidates for a particular office poll at least twenty per cent of the party vote, based upon the last vote for Presidential electors, they are deprived of the benefit and privilege of appearing as party candidates upon the official ballot; they may, of course, file independent nominations on petition.

A plurality vote nominates. Party committees are elected in the several precincts to make up the party county, congressional, senatorial and assembly committees. The State convention is composed of candidates for various State offices and for Senate and Assembly nominated at the primary, and Senators whose terms of office extend beyond the first Monday in January of the next ensuing year after the primary. This convention formulates the platform of the party, elects State central committee, and in presidential years nominates presidential electors.

For a number of years prior to the adoption of the Primary Election Law there was in force a Corrupt Practices Act requiring all candidates for office to file statements showing their expenditures in procuring the nomination and election. There is no limit to the amount, but some general provisions as to limitation upon the methods and objects of such expenditure.

The Operation and Results of the Primary Law in Wisconsin.

Sessions of the Committee were held at the capitol in Madison and at the city hall in Milwaukee. So many witnesses appeared and the record of their testimony, covering pages 1433 to 1942, is so lengthy, that it will be quite impossible, in the limits of this report, to do much more than mention the new salient points brought out upon the examination.

There are strong factional differences in the Republican party, the so-called Halfbreed element under the leadership of Senator Robert M. LaFollette, generally favoring direct nominations, but advocating amendments to the present law so as to provide for what is known as the "second choice," while the Stalwart faction is quite generally opposed to the law.

Something like twenty-five bills were introduced at the last session, seeking to amend the law in various particulars, but the only amendments of any importance that were permitted was the one requiring that candidates for a particular office must poll at the primary at least twenty per cent of the party vote, and the amendment providing for the rotation of names of candidates for any designated office.

A bill was presented, but not passed, providing for a method of second choice, which bill was strongly advocated by Mr. Charles J. Lush, chief clerk to the secretary of state, who was before the Committee. Apparently this measure will meet with less opposition at the next session of the Legislature, for Senator LaFollette has recently advocated it through his publication known as "LaFollette's Weekly Magazine."

A bill was also introduced providing for party enrollment for the purpose of preventing members of one party from voting the ticket of another.

Hon. J. A. Aylward, the Democratic candidate for governor in 1906 and 1908, stated to the Committee that he had prepared a bill for this purpose following the Oregon law; that it went to the committee on elections and that Mr. Roycroft, the chairman, stated that the committee did not want to report the bill because the Halfbreed members of the committee had had Democratic support in the primaries and expected it in the future and did not wish to prevent it, and that the Stalwart members thought it was introduced so as to help the Democratic party and they did not want to support it; so between the two factions it died. Mr. Aylward said that the situation in this State is such that the primary law is killing the minority party and they can scarcely maintain an organization when both factions of the Republican party are "drawing and pulling and trying to get us to go into their caucus." (1533, 1534.) He strongly opposed the twenty per cent bill above referred to, and said it would probably kill the

Democratic party in the State of Wisconsin, as it is a very difficult thing for the minority party to get twenty per cent of its vote to the primary. The use of money in the primaries is all powerful. "I think any man," said he, "I don't care who he is or what his record is, if he has got enough money, he can carry the State either on the Democratic side or the Republican side for a nomination for any office in the State."

Mr. Aylward, however, believed that the Primary Law was an improvement over the practices of the old delegate and convention law, as they were conducted without any statutory control.

The secretary of state, Hon. James A. Frear, strongly defended the law and believed that conditions under it were much better than under the delegate and convention system, and that if it were possible to amend it, its operation might be perfected.

Mr. Frear was the first of the secretaries of state to commend the system of direct nominations before this Committee, the secretaries of Kansas, Iowa and Minnesota having condemned it.

Mr. Charles J. Lush, above referred to, expressed himself as opposed to the Primary Law of Wisconsin, particularly because it did not secure nominees who were the choice of a majority of the party. He also thought it was a mistake to extend the law to include State officers and believed that a system which provided for the election at primaries of delegates to State conventions and for direct primaries so far as the nomination of local and county officers are concerned, would bring about a better situation, and make less factional disturbances in the majority party.

Hon. John M. Whitehead, a Yale graduate and State senator from Janesville, Rock County, and a Republican in politics, strongly condemned the law and the practices that have grown up under it. Biennial sessions of the Legislature are held and the salary for senators and representatives is $500 for the two years with one mileage and no additional salary for extra sessions. The term of members of the assembly is two years and for senators four years. There has been substantially no change in the *personnel* of public officers since the introduction of the Direct Nominations system; the men who were in office have very largely retained their positions.

Mr. Whitehead's county voted against the adoption of the Primary Law when it was proposed and submitted to the people

on the Referendum in 1903. To use the words of Mr. Whitehead (1488), "I think it has created a great deal of turmoil and political trouble without any material change in the *personnel* of the public officers and has entailed upon candidates a great deal of personal inconvenience and expense and annoyance that they did not know anything about under the old system. It has a tendency to disrupt parties; the party leadership gives way to personal leadership and cliques get in operation. It tends to take away the interest of the average citizen in political activity, practically paralyzes the general political committee; in my county, which is overwhelmingly Republican and where we formerly had a strong central organization, it is difficult, almost impossible, to maintain any effective party committee organization and difficult to get men to attend political meetings, and under the methods of selecting committeemen at the primary it has gone largely by default and people have neglected to vote for committeemen and have paid little or no attention to the matter." (1489.)

Candidates cover the billboards with what they have done and what they propose to do, and fill the newspapers with their personal advertisements. The whole country is plastered over with posters, photographs and lithographs; nobody is responsible for the candidate, no party and nobody but himself and his little clique. (1490.)

Referring to the large number of voters who participate in the primary, Mr. Whitehead said that the candidates have their own workers and everything is on a commercial basis. The primary has developed a school of retainers or professional workers whom a candidate may retain in his service and employ during the campaign, and this man manages the campaign of a candidate and it is the business of these men to scurry around and get the vote out. Railroads and other great corporations frequently take a hand in securing the nomination of some candidate. The tendency is toward cliques and intrigues and personal factions more and more. A great leader gathers around him a following and strives to hold it; the following that rallies around one man is not a party but a personal following. Parties are united on principles and customs. There is nothing to bring the people together in the primary for an exchange of views.

Referring to the attempted amendments of the law, he said: "No law on the statute book is sought to be tinkered so much as this Primary Election Law. It is artificial throughout from beginning to end, arbitrary in all its provisions, everything about it is invented. All the experience of the people in regard to the management of their parties was cast aside, and the whole law is constructed practically on a new basis from top to bottom and the result is that it galls first on one shoulder and then on the other, and one Legislature fixes one thing, and then the next Legislature fixes something else, or fixes the other thing over again" (1503).

He referred to the re-nomination of Congressman Babcock and to his defeat at the election and attributed it to bitterness that grew out of the primary between Mr. Babcock and his opponents, within his own party.

Hon. John M. Clancey, an attorney of Stoughton, Wisconsin, a Democrat in politics and formerly an Assistant Attorney-General of the State, also at one time mayor of his own city, appeared before the Committee.

Mr. Clancey has been very active in politics as a public speaker, secretary of the Democratic State Central Committee and National Democratic Committeeman from Wisconsin and one of the secretaries of the Democratic National Convention held in Chicago in 1896. Mr. Clancey took substantially the same views given by Mr. Whitehead. He said that voters could have no reliable information as to the character and fitness of candidates and that if a good man was nominated it is more likely to be accidental than otherwise. The fact that voters must make their choice of candidates in ignorance of their characters, has led hundreds of men to aspire to public office who would not dare submit their character and qualifications to the scrutiny of a nominating convention.

In conclusion, he said: "In theory the law appears to be all right; in practice it is simply damnable. The states that have not yet adopted it are to be commended for their wisdom; the states which have adopted it are sufficiently cursed without adding additional imprecations. Tell the Democrats of New York to flee from it as they would from a sinking ship."

The minutes of Mr. Clancey's testimony taken at the hearing

were unfortunately destroyed by fire at the stenographer's cottage and Mr. Clancey subsequently furnished the substance of his testimony, with a letter of transmission, which is made a part of the record.

One of the most frank, careful and conservative witnesses was Professor Ernst C. Meyer, professor of political science in Wisconsin University, who has written a book upon "Nominating Systems," and whose testimony given before the Committee appears at pages 1541 to 1565.

Professor Meyer said, that upon the general principle of direct nominations, as contrasted with nominations by representatives, after a good deal of study and reading, he reached certain conclusions and in 1902 he came to be strongly in favor of direct nominations for all offices in the State, that is a "State-wide primary." "I did not," said he, "see many possibilities for corruption which I see to-day after the law has been in use in our State, and a good many of the other States, and I have some reason to say that I should modify my view somewhat. I believe that all in all the direct primary is superior to the convention system, but we have all seen defects in it and I presume that only an incurable idealist would have expected a new system to operate without difficulties in some cases, cases of great importance, which in the eyes of many have proven the primary a failure."

In pointing out the defects of the system, Professor Meyer gave to the Committee many concrete cases which he said he believed would be of more real value than any academic argument.

First, as to the public expense:

The first trial of the primary was 1905, and the cost varied from fifteen cents to twenty dollars a vote, and about 75 per cent of the total vote of the general election participated. In one precinct seven men were paid $2.50 each by the State and received 31 votes. This is an extreme case and no more proves any rule than the case mentioned by Mr. Price in New York, where in a certain district in 1888, 50 voters chose 115 delegates, as this would not be typical of the operation of the convention system.

In the fall primary of 1906, about 60 per cent of the total party strength was represented. The Republican party, however, cast a vote of 93 per cent of its full strength and the Democratic party

a vote of about 20 per cent, the Prohibition party a vote of 19 and a fraction, and the Social Democratic party 10 and a fraction, bringing the total vote cast in the primary to 64.

In 1905, in the fall primary, the participation amounted to almost 46 per cent of the vote cast at the general election.

From this, Professor Meyer says that the conclusion will probably be drawn that the participation has been larger and in some cases considerably larger than it was in the old caucus and convention system.

The larger participation of the voters, however, is largely due to the public excitement induced by the personal advertising and activity of the candidates and to the expenditure of large sums of money in the campaign. A large number of candidates, any one of whom may be nominated by a plurality vote, all organizing, and advertising, will undoubtedly result in bringing out a larger number of voters than will ordinarily participate in a primary for the election of delegates.

In the campaign for the office of United States senator in 1908, Mr. Stevenson received 31 per cent of the party vote, total 56,839; Mr. Cook, 26.25 per cent, total, 47,944; Mr. McGovern, 23.30 per cent, total, 42,631; Mr. Haddon, 19.44 per cent, total, 35,621.

In the Democratic party, Mr. Brown received 66 1-2 per cent of the party vote, total 24,944; Mr. Hoyt, 33 1-2 per cent, total, 12,281.

Second, as to plurality nominations:

In Milwaukee, in 1906, there were five Republican candidates for sheriff. The winner received 9,694 votes out of a total of 26,412, or about 37 per cent of the party vote.

For treasurer, there were six candidates, the winner received 5,931 votes out of a total of 29,448, or about 23.3 per cent of the party vote.

For clerk of the court, there were three candidates; the winner received 7,465 votes out of a total of 20,115, or about 37 per cent of the total party vote.

For register of deeds there were three candidates and the winner had 8,388 out of 22,963, or about 36 per cent of the party vote.

In no case did any candidate get a majority of the party vote. On the other hand, in 1906, in the contests for State senator, there

were only two cases in all of the parties where there were more than two candidates and in those two, there were three, one of whom received 40 per cent of the total vote and the other 41 per cent. The congressional districts in 1906 showed but one contest where there were more than two candidates, the fourth district, where there were three, and Carey, the successful candidate received 42 per cent of the total.

In the case of State officers, in 1908, the present Secretary of State, Mr. Frear, received 36 per cent of the total vote, with three candidates in the field. State Treasurer Doll received 29 per cent with five candidates, and Attorney-General Gilbert, 51 per cent with three candidates in the field, his being the only case of a majority nomination.

The investigation of the Bureau of Statistics seems to indicate that in fifty-nine cases out of a hundred, the candidate was nominated by a majority of the total vote.

Professor Meyer suggests that some minimum requirement might be made as in Iowa to the effect that a candidate must receive a certain percentage of the vote in order to be entitled to the nomination.

Third, as to expenditures by candidates:

Professor Meyer states that the facts indicate that politics is a bad business; he came to this conclusion in comparing the total expenditures with the salary of the office sought.

In 1906 there were five candidates for State Treasurer, and the expenditure for the primary was $8,192.42 for the $5,000 office.

In the Fifth Congressional District in 1906 the contest for the nomination for Congress between Cochems and Stafford cost $3,738.43.

In 1908, when the contest was sharp, the expenditure was $5,927.26, for both primary and general election. In 1908 five candidates for sheriff, three Republicans, one Democrat and one Social Democrat, expended $9,386.26.

In the contest for district attorney in Milwaukee in 1906, Mr. McGovern, the successful candidate, expended $15,574.85, and his opponent $15,252.75, making a total of $30,828.58 for the $5,000 office for two years.

The four candidates for United States senator in 1908, according to their sworn statements, filed in the office of the Secretary of State, expended $189,988.05, of which the successful candidate, Isaac Stevenson, spent $107,797, approximately $2 for every vote he received at the primary. After the primary, his opponents under the leadership of Senator LaFollette, sought to have the Legislature repudiate the primary vote, and except for the absence of two Democrats, this would have been accomplished.

Professor Meyer deprecated so large expenditures and said that while the candidate might be, and probably was, an honest man, and was going into the business of trying for office for the honor of holding the office, he could conceive how it was so expensive, and if he had to borrow the money, he would be under obligations in many different ways. The direct primary is rather an expensive thing for any candidate, good or bad, and the difficulty is to remedy it.

He does not think it is wise to attempt to limit the amount of the expenditure, as has been suggested, to a certain percentage of the salary of the office, nor to attempt to limit it by defining the items for which no expenditure may be incurred, but rather define the items for which a candidate may create expense; tell him what he may do and not what he may not do (1556).

While not advocating it, he nevertheless expressed the view that we might come to a time where the State would pay the expenditure of candidates, as is done in Colorado.

Referring to the senatorial campaign, the professor thought he could see a sunny side to the expenditure of so much money, because of the popular agitation it involves, that the moral standard of the press would ultimately be raised, although the tendency under this system was to lower it; in going through the country he found many people, who said they could not accept what they saw in the papers and he believed that ultimately there would be a reaction; that the press, in order to keep its power, would have to raise its standard of accuracy. The disposition, however, to expend so much money in securing nominations put the poor man to a great disadvantage (1559, 1560).

Fourth, as to the breaking of party lines:

According to Professor Meyer's computations and reasoning,

he declared that in 1906, 24 per cent of the total vote cast in the Republican primary represented men who bolted their own party and entered the ranks of the Republican party, or a total of above 50,000 Democratic voters in the State. In 1908 about 19 per cent of the Republican vote at the primary was the vote of Democrats, representing about 40,000 votes in the State.

In the Fifth Congressional District in 1908, the Democrats polled in the primary, 1,248 votes; and in the general election, 8,656 votes; and in the primary, the Social Democrats polled 938 votes; and in the general election, 8,769 votes.

It is an undisputed fact that the Social Democrats and Democrats entered the Republican ranks to a very large extent and controlled the nomination. In Milwaukee, in 1906, Mr. McGovern was a strong candidate for district attorney. The Social Democratic candidate, Thiel, polled but a few votes and his friends assisted in defeating McGovern in the primary. McGovern then ran as an independent candidate and received 15,508 votes as against 15,484 votes for the Social Democrat, Thiel.

In the senatorial contest in 1908, at least 50,000 members of the Democratic party voted the Republican primary ticket, which fact Professor Meyer determines from a comparison of the votes.

As to the enrollment system in vogue in New York, Professor Meyer said that might be the most effective solution of this problem, but there were many objections as it does not give the voter a sufficient independence at the time of the primary.

Th frank and candid statements of the learned professor are worthy of thoughtful consideration.

As an illustration showing the lack of participation by Democrats in their own primary, and the apparent participation of Democrats in the Republican primary, we have copied a few figures from the Wisconsin Blue Book of 1907, in the primary contest for Governor and the election that followed:

Adams County, Primary Election.—The town of Adams cast for the Democratic candidates 11 votes; for the Republican candidates 72 votes.

Election.— The same town cast for the Democratic candidates 28 votes; for the Republican candidate 67 votes showing 5

more Republican votes and 17 less Democratic votes cast at the primary than at the election.

Primary Election.— The town of Big Flats cast for the Democratic candidates 2 votes; for the Republican candidates 44 votes.

Election.— The same town cast for the Democratic candidate 15 votes and for the Republican candidate 36 votes, or 13 less Democratic votes and 8 more Republican votes at the primary than at the election.

In the entire county of Adams, at the primary election, there were cast for the Republican candidates 830 votes, and for the Democratic candidates 44 votes, while at the election which followed there were cast for the Democratic candidate 212 votes, and the Republican candidate 699 votes, or 179 less Democratic votes and 131 more Republican votes at the primary than at the election.

An examination of the primary and election returns from the rural counties will disclose the fact that this condition prevails with rare exceptions all through the State.

In Milwaukee County a similar comparison discloses the fact that at the primary there were cast for all Republican candidates for governor 27,191 votes, and for the Democratic candidates 2,361 votes; for the Social Democrats 2,197 votes. At the election which followed the Republican candidate received 24,521 votes, the Democratic candidate received 12,856, and the Social Democrat received 17,061, which goes to show that the Republican candidates at the primary received 2,670 more votes than the successful Republican candidate received at the election.

This was presidential year and it is probable that substantially the full strength of the Republican party was out at the election.

The results above show that either large numbers of Democrats vote Republican tickets at the primary or that the Republicans do not support their candidate after his nomination.

The Blue Book referred to is returned with our report for further reference.

Many witnesses were examined upon both sides of the question in the city of Milwaukee. Among those who condemned the law were Hon. Edward T. Fairchild, Republican State senator, who asserted that the Primary Law has not benefited the State adminis-

tration in any respect, and that so far as any existing evils of the convention system are concerned, he had always thought it was more of a desire on the part of certain men to get the public's attention and hold it rather than to cure existing evils, that the primary idea was advanced. The evil influence of money had been aggravated rather than lessened.

He contended that under this system there was "less government by the people and more government of the people." "Candidates spring up who have some theory or idea which they can present in a catchy way and when all have formulated their notions of government before the campaign is over you haven't anything except a general mixup or a fight between individuals for the office."

Senator Fairchild thought that the old system needed to provide throughout the State for the election of delegates at the primaries for all conventions and doing away with the intermediate convention to select delegates to some other convention. This occasioned more criticism than any other feature of practice under the convention system, and in this connection, he added, "but your voters in New York will surely make a mistake if you do away with the State convention. The bringing together of the people from all over the State is a mighty valuable thing in political life and in the social and economic life of your state." (1605.)

Referring to the contest for United States senator in 1908, he mentioned the fact that Senator LaFollette was elected by the Legislature without a popular vote, and that Senator Stevenson had been a candidate for the same office about ten years ago before the Legislature and failed, while he succeeded under the primary system in securing thirty-one per cent of the Republican vote, which was subsequently ratified by the Legislature.

Special interests are not handicapped and prevented from naming candidates under this system, as they can easily and quietly get control during the primary campaign.

The claim that a candidate thus nominated is more directly responsible to the people than under the old system is a fallacy. He is under obligation to certain individuals who get back of him and elect him, and it may be a very small percentage of the voters, while under the other system he is under obligations to his party and party representatives.

Mr. Frank M. Hoyt, a lawyer and the president of the school board of the city of Milwaukee, but having held no political position except for some years chairman and secretary of the Democratic county committee, characterized the Primary Law as vicious. It is enormously expensive to the public, builds up a clique of office holders who enter into such combinations that an independent can hardly break in; the advantages arising from the association and getting together of men interested in political affairs in the caucus and convention is lost; in a convention the delegates see the man that they are voting for and become acquainted with him and can form a better opinion of his character than they can from his photographs published through the newspapers.

It is enormously expensive to the candidates and prohibits a poor man from making a canvas for any important office. So far as the interest of the voters in coming out to the primary is concerned it is not genuine. They are swamped with letters and circulars requesting them to go and vote for this one and that one, as they are urged by their friends to do, and it is impossible for them to pass any intelligent judgment upon candidates in one case out of fifty. While there was more or less trading done in conventions, Mr. Hoyt said that his experience was that the cases of corruption were very rare.

Mr. Hoyt said that he had talked with many of the members of the Legislature who voted for Senator Stevenson, and that they had privately expressed to him that they voted for Senator Stevenson in the Legislature because they felt bound by the result of the primary election, and not because they desired that he should be senator.

The wisdom of electing a man as the junior senator from Wisconsin who is about eighty-one years of age is questioned.

Mr. Hoyt also gave his experience in endeavoring to find acceptable candidates to run for aldermen under the primary; in one instance in the interests of the party and for the purpose of getting rid of two very objectionable men who were members of the board, he interviewed at least a dozen business men, not one of whom would consent to run because of the double election. This, he says, is typical of the situation everywhere.

Hon. David S. Rose, who is now serving the tenth year and fifth term as mayor of Milwaukee, characterized himself as a

"thoroughbred Democrat." He said he had been active in Wisconsin politics for thirty years, was familiar with the operation of the caucus and convention that prevailed in the State until about three years ago, and had had opportunity to observe the practical operation of the Primary Law in Wisconsin. Mayor Rose has been nominated twice under the Primary Law and subsequently elected. He is a man who apparently has the courage of his convictions when he says: "I regard the Primary Law as the most vicious system that was ever devised by human ingenuity, and I think I can give reasons for my faith." (1632.)

The mayor described political conditions in the city and the actual operation of the law in vigorous language, which it is impossible to repeat at length here. The bitterness resulting from the primary campaign is so intense that a very large percentage of those who supported the defeated candidate refuse to support the successful candidate, although of his own political party. Pre-primary organizations requiring a great effort and the expenditure of considerable money had to be made by all candidates. The organization of the successful candidate continued after the election, but that of the defeated candidate went to pieces.

The members of one party constantly nominated the candidates of the other for the purpose of defeating him at the polls.

The mayor did not see how it was possible to require a party enrollment so as to prevent a man from changing his mind as to his politics as often as he wishes to; that any other rule would be disastrous to our form of government.

The Social Democrats, who are very strong in the city of Milwaukee, have no contests in their primaries as they are a due-paying organization and select their candidates to go on the primary ticket by some sort of referendum vote. This leaves them free to act with one party or the other for the purpose of securing weak candidates whom their men selected by their own method can oppose. It may be said in this connection that there are a large number of Social Democrats who are members of the city council.

In the spring of 1908 there were six candidates for nomination for the office of mayor, two Democratic candidates, three Republican candidates and one Social Democratic candidate. There

were five different organizations affected and the pre-primary campaign lasted ten weeks. A large amount of money was spent by all of the candidates. As soon as the nominations were made the individual organizations disintegrated and the partisan feeling that had been engendered between the candidates at the pre-primary campaign asserted itself at the election and the Social Democratic candidate, who had had no contest, had 2,476 more votes than the Republican candidate, and came within 2,219 votes of defeating Mayor Rose upon the Democratic ticket.

Under the old system of electing United States senators, Senator Quarles, a poor man, defeated Senator Stevenson, a reputed millionaire. Senator Qaurles is now the United States district judge of this district.

Mr. Edward Hinkel, city clerk of Milwaukee, furnished the Committee with copies of the expense accounts of candidates for primary elections for city officers.

Louis A. Dahlmann, Republican candidate for mayor:

Salaries of headquarters of employees	$1,250 00
Advertising	3,520 69
Services	1,225 00
Rent	530 00
Hall rent	350 00
Carriages	325 00
Services	1,225 00
Postage	450 00
Incidentals	250 00
Total	$7,900 00

The salary of the office is $4,000 and the term is two years. Mr. Dahlman received 2,590 votes, the least of any of the candidates, and his expenses were a little over three dollars a vote.

John T. Kelly, Republican candidate for mayor:

Total expense	$3,205 80

The items of his statement covers nearly four pages and includes rent of halls, etchings and cartoons, zinc cartoons, advertising and programs, advertising in addition to bill programs,

Royal League programs, reporting and transcribing speeches, messenger service ($334.95), 100 campaign posters and a large number of other items of printing and advertising, cigars, lantern slides. He received 6,645 votes.

T. J. Pringle, the successful candidate for mayor in the Republican party, filed a statement showing expenses amounting to $6,141.02. There are thirteen different items under the head of "Payments to various persons." About $3,150 of this sum was paid for advertising and printing and a considerable sum for cigars and refreshments. Mr. Pringle received 8,262 votes.

W. G. Graebner, Democratic candidate for mayor, spent $2,488.23 and was unsuccessful. His advertising and printing bill amounted to about $675, besides $46 for a half tone and $45 for a press agent. Mr. Graebner received 8,068 votes.

David S. Rose, the successful Democratic candidate, expended $5,223.89. Mayor Rose received 18,048 votes.

The Democratic vote cast at the primary for all candidates for mayor was about 3,300 more than the vote cast for the Democratic candidate for mayor at the election, and the Republican primary vote for mayor was about 2,000 less than the vote cast at the election for the successful Republican candidate.

The printing of the primary tickets, etc., cost the city $7,805.10. It is quite customary for candidates to have sample ballots printed with their name X-marked, and these are distributed throughout the city so as to instruct the voters how to vote for the particular candidate in whose interest the ballots are circulated.

Mr. J. F. Donovan, a lawyer, of Milwaukee, and unsuccessful Democratic candidate for Congress and for district attorney, stated that, from his observation of the working of the Wisconsin Primary Law, it is a farce and does not accomplish what was intended to be accomplished by the framers of the law, if they did intend it to accomplish any reforms.

His statements substantially corroborated the views expressed by Mayor Rose. He also condemned the placing of candidates upon the ticket in alphabetical order. The benefit which the candidate has, whose name appears at the top, where there are a number of candidates, was, we believe, admitted by every witness before the Committee in every State, whether commending or

condemning the Primary Law, and in at least five of the States visited, the rotating system has been adopted by statute.

Hon. C. E. Estabrook, of Milwaukee, a Republican lawyer, who has served five terms in the State Legislature and was Attorney-General of the State for four years, thought it would not be wise under present conditions to repeal the Primary Law in Wisconsin, although it has not come up to what its friends claimed for it; it has been unsatisfactory and is not a success. It failed in a very marked degree to bring out first class men for public office and to make merit, ability and efficiency the controlling factors in selecting candidates for public office.

It has excluded "the office seeking the man" almost entirely. If the caucus and State convention could have been preserved and the abuses which had grown up under that system corrected by the Legislature, it would have been better.

A State convention composed of men who are not running for office is a great deal better equipped to select a State ticket than the people are in an unorganized way under the primary election. Discussion of public topics and principles can only be had through the medium of such convention. The witness said that it was no reflection upon the voter to say that a State convention was better equipped to select candidates for State offices than the people, for it is to the credit of the great mass of people that they are attending to their business rather than to politics. While there is some advantage in having the candidates make the platform, still the old method of having the same convention that nominates the candidates make the platform, he believed to be better. In all of his years' experience as a delegate to State and national conventions, there was very little charge of corruption and improper use of money.

It was the effort of the Committee in seeking information as to the working of the primary laws to obtain expressions from men who were not office holders or candidates for office, but who, because of their patriotic citizenship, have made an unprejudiced study of political systems. It is unfortunately true, as before stated, and to quite an extent observable by the Committee, that the views of strong partisans or close followers of one faction or the other, coincided with the well known ideas of the factional

or party leaders. Whether the opinions of such men were to any degree influenced by the opinions of their factional leaders, or whether they were members of a particular faction of the dominant party because of the fact that they entertained views similar to those of the leaders, it is, of course, impossible for the Committee to determine. The fact, however, will be recognized as common to all factional or party politics.

Probably the best informed man in the State of Wisconsin upon the subject of primary elections is Emanuel L. Philip, of Milwaukee, a Republican, who has never held an office and has never been a candidate for office, although some years ago having been a member of the executive committee of the State committee of his party. He is the president of the Union Refrigerator and Transportation Company. For ten years, since the primary question came up for discussion, he has made a particular study of this method of nominations, a portion of the time having an employed secretary for the purpose of gathering data from Wisconsin, by watching political movements and in endeavoring to ascertain the effect that these changes have upon the body politic (1776).

Mr. Philip began by stating that the Legislature of New York acted wisely when it appointed a Committee to investigate the workings of the direct primary in states where the law is in operation, before adopting it. "I feel," said he, "confident that you will take home with you evidences of failure and disappointment in this and other States where it has been tried that will cause your people to reject it. It would have been well for the people of this State if they had waited for a demonstration in other States of the advantages of this method of making nominations over the party convention plan before they adopted it; however, the agitation for it produced new political leaders whose personal interest demanded an immediate enactment of the law, if they were to continue their leadership, and our people, influenced by the plausible theories advanced in support of the scheme, permitted themselves to be literally talked into it" (1778).

Because conventions in Milwaukee some years prior to this were conducted in a disgraceful manner until an act of the Legislature, amended from time to time and applying only to Milwaukee county, provided a legal primary day and primary ballot. In 1897

this was extended to practically the entire State. It preserved conventions and did not disrupt political parties. It was satisfactory in its operation and no specific complaint was ever registered against it, except by a few radical reformers, until 1901, when Governor LaFollette organized an active campaign for direct primaries, which passed the Legislature in 1903 and was adopted by a small vote at the June election in 1904 (1781). There was no real necessity for any radical change in the nominating system when this law was passed. Wisconsin was not a corrupt State and from the time the State was admitted into the Union up until 1903, no election fraud, real or alleged, had ever received the attention of the Legislature, and few, if any, of the courts.

The laws regulating the primaries had been amended from time to time for twelve years and a splendid system was being adopted that was working satisfactorily.

The argument which had most force was that it would bring the government closer to the people by giving them the right to select their own public officers by a direct vote and would as a consequence destroy the influence of the boss. In its practical operation that has not proved true. It was also claimed that it would improve the *personnel* of the public officials. This has not occurred. In proof of his assertion that the *personnel* of public officials has not been improved under the law, Mr. Philip mentioned the fact that at the time of the adoption of the law, the State was represented in Washington by Senator John C. Spooner and J. V. Quarles, now a Federal judge. The State is now represented by Senators LaFollette and Stevenson, the latter a man upwards of 81 years of age. He also called attention to the fact that at that time out of eleven congressmen, the Wisconsin delegation held the chairmanships of the Judiciary, of Affairs of the District of Columbia, of the Committee on Insular Affairs, and had an important position on the Committee on Ways and Means; also on Military Affairs, and the Committee on Marine and Fisheries and the Committee on Rivers and Harbors. To-day the State has one chairmanship in the lower house of Congress, and for the first time the State has furnished Congress a prominent member on accoustics and ventilation. He denied that the loss of prestige on the part of the Wisconsin congressional delegation

was due to the antagonism of the speaker, and claimed that it was due to the fact that each man represented a personal platform, which he was obliged to frame in order to secure his nomination and does not represent the Republican party of Wisconsin; it is a situation that they have made themselves and are themselves responsible for.

As to State officers, he said they had always had good men; that a long line of distinguished gentlemen had occupied the Governor's chair, and there had been no better Governor than Governor Scoville, and that the present incumbents were no better than their predecessors.

Before Wisconsin had a Primary Law the ruling party was responsible for the acts of the Legislature; now nobody is responsible and responsibility cannot be located; it is divided between 133 people; each shifts it upon the other. The Legislature is divided into little cliques; each clique has a leader, who has some political axe to grind. The fact of this can be easily seen in the expenditures of the State, which have doubled in the past ten years. The public business was formerly run on about three and a half millions and it now takes over seven. There have been no very expensive public operations except that recently a new capitol building has been started.

In regard to the minor offices there has never been so much scandal as in the past five or six years. They have meddled more in politics; they have been used in politics in a manner that no party would be responsible for, and it has been done because there is no party responsibility for any of these things. The action of the game wardens and factory inspectors is a matter of public scandal.

The public morals have not been elevated by the change in the method of making nominations. Never before in the history of the State has so much money been expended in campaigns as at present; never before were so many open charges of corruption and unlawful use of money.

To substantiate this statement Mr. Philip presented a great many figures, some of which we will incorporate.

He covers a period of ten years during which time, the "Pub-

licity Act," which was passed in 1897, has been in force, both before and since the adoption of the direct primary:

All candidates for mayor before the Primary Election Law:

1900	$3,081 50
1902	1,966 64
1904	627 25

All candidates for mayor under the Primary Election Law:

1906	$14,735 21
1908	25,513 00

Other city officials before the Primary Law:

1904	$3,203 00

Other city officials under the Primary Law:

1906	$20,638 89
1908	30,039 00

All State officers before the Primary Law:

1898	$8,230 93
1900	13,547 95
1902	17,820 61
1904	9,628 60

All State officers under the Primary Law:

1906	$27,915 49
1908	50,479 49

The same abnormal increase in the expenses of candidates appears from the statements filed with the county clerks.

In Milwaukee County:

1898	103 statements were filed and expenses reported	$14,887 91
1900	67 statements filed, reporting	24,952 58
1902	53 statements filed, reporting	27,792 14
1906	The first year under the Primary Law, 96 statements filed, reporting	69,873 03
1908	87 statements filed, reporting	46,308 87

It is not true that these increased expenses are caused by the increased number of candidates, as a comparison of the number of statements filed in each year will show.

The expenses incurred by the candidates for mayor after the primary have already been mentioned. Before the primary for all candidates they were as follows:

1898	$1,574 60
1900	3,081 50
1902	1,966 65

The first year under the primary the total was $14,735.81, and the second year under the primary the total was $25,513.

It will be thus seen that prior to the primary election the candidates never expended more than $3,881, as against $25,513 in 1908 under the primary system.

These reports were always under oath and Mr. Rose's oath is no better now than it was in 1902 or 1900.

Mr. Philip also went minutely into the expense statement filed by all State officers both before and after the Primary Election Law and similar increases appeared.

In the congressional districts, the following statements were filed:

1898	Ten congressmen reported	$19,437 75
1900	Same reported	19,834 88
1906	The first year under the primary system	45,327 78
1908		50,517 79
1899	In the United States Senate there were five candidates who reported	6,760 60
1903	John C. Spooner was elected without opposition and reported no expense.	
1905	Mr. LaFollette was elected and reported	26,287 00
1907	Mr. Stevenson was elected against one candidate and reported	6,137 89

There was no contest in the primary in 1907, the Legislature being in session when Senator Spooner resigned.

In 1909 four candidates reported $192,977.59 "to the best of their recollection." The successful senator reported $107,000.

Mr. Philip contended that the expenditure of this enormous amount of money would not improve the public morals, but on the contrary hurt the public morals, not that the money was spent corruptly or that votes were bought, but to spend that amount of money under any system you may devise in procuring public office gives young men a wrong idea of elections, and public morals are necessarily depraved by it. The money is spent in employing men in different parts of the State, who have lists of names, and who are in a sense the boss of his community. For hire he becomes active in the candidate's behalf, sees many people, hires teams to bring voters in and does whatever he sees fit with the money. They procure advertising space in newspapers, give donations to various public institutions. The active politician who is in politics for money, for what he can get out of it, generally gets "next" and gets all he can. Mr. Philip did not think that the newspaper advertisements of candidates were an educational advantage. The promulgation of party doctrines and the distribution of literature is commendable but the personal self laudatory statements of candidates is to be condemned.

Some of the strongest advocates of the Primary Law repudiated it when defeated under it. Mr. F. E. McGovern was a candidate for district attorney and was fairly defeated in the primary, and stated a day after the primary that he was satisfied with the results; a few days later he thought differently, and ran upon an independent ticket against the regular Republican nominee and was elected.

Mr. H. L. Eckern, an able leader and speaker of the assembly, was defeated in the primary in 1908 for the nomination to the assembly. He was not satisfied with the will of the people and ran independently and was defeated. After Mr. Isaac Stevenson, present United States senator, had carried the primary in 1908, Senator LaFollette, the apostle of the primary, was not satisfied with the will of the people and has been fighting Mr. Stevenson ever since. Special reasons for repudiating it are always urged. These instances are mentioned merely to show that the men who were leaders in advocating it have shown that they believe in it

only when it works to their benefit. This is not consistency. Mr. Philip further contended that it had disorganized parties and built up personal political machines. Republican clubs and Democratic clubs for the promulgation of party policies and party principles have disappeared from Milwaukee and other cities of the State and in their place are Stalwart and Halfbreed organizations. Were it not for factional politics there would be no party in Wisconsin to-day, unless it would be the Socialistic party, which maintains an excellent organization. In the Legislature the Republican factions are at war with each other, proposing and securing the appointment of rival investigation committees, not for the purpose of purifying the State and punishing offenders, but to prove that the respective leaders are rascals who should be driven from office. (1800.)

The Primary Law was supposed to destroy the influence of the boss. Mr. Philip said that so far as he knew Wisconsin had never had any very influential boss until 1900. There had been men who did sway some things in politics; men follow leaders and always will. Mr. Keyes was supposed to be somewhat of a boss and Senator Quarles was sometimes referred to as a boss, but the State never had a complete all-around successful political boss until Mr. LaFollette. The proposition that the Pirmary Law will abolish the boss is wrong on the face of it; the more politics are complicated the greater is his opportunity; in other words, the greater is the opportunity for leadership. The Primary Law has complicated politics very much and now the State has not only a large boss but quite a number of bosslets that work under him.

Under this system the rich man has every opportunity over the poor man and always will have it; no matter how the law is amended, where a candidate has got to go to the people to get acquainted with all the people and to advertise himself to them, he cannot do it without money. Now and then there is an office holder who is pointed to as a poor man; and this is probably true, but he has rich friends; and poor men run for office under this system and obligate themselves to men who furnish the money. Few men give large sums of money purely out of patriotism; there is generally some string to it.

Any man with the same amount of money can obtain the same results obtained by Senator Stevenson in the last campaign for

United States senator, under this system. Senator LaFollette is not reputed to be a rich man. The junior senator, however, claims that he spent vast sums of money on him, that he was his financial backer, and demanded the office and assistance of Mr. LaFollette because of the large amounts of money which he had spent in his behalf.

It was represented that the people under this system could vote directly for the candidate of their choice. The public infer from that statement that any man whom they may wish to vote for can be placed upon the ticket; that is not the fact. In order to go on the ticket a petition must be circulated to be signed by a certain per cent of the voters. The candidate must first select men to obtain these signatures; in other words he must nominate himself to the office. The practice is to hire men and pay them so much apiece for the names. When the voter goes to the primary, instead of voting for the man of his choice his only right is to choose between those who are on the ticket. He might, of course, write in a name, but that would be a mere waste of time; so that the voter who thinks that under this system he has obtained the great privilege of nominating the men for all the offices in the State, who are his own particular choice, finds that the only choice he has is in discriminating between the men who have nominated themselves. (1807.)

Never was a greater farce put before the people than this idea that under this system the people are going to be able to vote for a man of their own choice. Every man upon the ticket may be unknown to the voter or may be objectionable, if he does know them. And in concluding his remarks upon this subject Mr. Philip said: "I would rather trust the honesty and the citizenship of a thousand men assembled in a convention to make a nomination for me than I would a petition that has been paid for at so much per name." (1808.)

He also referred to the fact that there were no longer any party clubs or organizations for the promotion of party interest and principles and that it would be impossible to organize such in the mixed condition of Wisconsin politics, and the reason for it is that men are nominated, place themselves on the ticket rather, to be nominated without any party, without any reference to party

affiliations or party organizations. They may call themselves Republicans or Democrats, that does not matter; the test is their party affiliation. (1808.)

The requirement that only those who have been nominated for office assemble for the purpose of making a party platform is also condemned, for the reason that every man participating is willing to declare for anything that will enable him to win. It is not a platform of party principles which a party may follow; it is a temporary rag upon which to win. They are not willing to make a platform there of principles upon which they would be willing to go down rather than to surrender the principle.

The Primary Law is also unfortunate in that it engenders so much bitterness. There is too much personal politics in it which always leads to bitter animosities between men; there were no such animosities up to the time of the "reform age" in 1900. The two parties faced each other and contended for different principles of government.

Mr. Philip attributed the multiplicity of laws passed by the State Legislature to the fact that there was no party responsibility for anything. The Session Laws of 1909 contain 2,335 pages, 611 pages more than the first of the three volumes of the combined work of the Legislature for ninety-eight years preceding. Everything is legislated apart from any party responsibility. The result is a great mass of worthless, useless legislation, which is merely a burden upon the people. (1813.)

The witness regarded the Primary Law as merely a step towards pure Democracy. To provide for the nomination of candidates by representatives in convention does not mean that the people cannot be trusted nor that they ought not to have the right to govern themselves. It simply means that they will get better results by appointing certain men to select their candidates for them than they can possibly do by trying to select from those who nominate themselves. Few men are well known to any large number of people and in their anxiety to obtain office they misrepresent themselves through advertisements and otherwise, and most voters do not get enough information concerning anybody to make a really intelligent choice.

The repeal of the law need not be expected until the men who

are responsible for it are out of politics. The fight which brought it upon the State was very bitter and they are not going to go back; they would regard it as political suicide to admit that after all they were mistaken. It took a long time to adopt it and it may take a long time to get rid of it.

If the State had annual instead of biennial primaries the results would be still worse.

The fact that each candidate must in the first instance nominate himself and then go out and advertise himself, prevents many who have distinguished themselves in private life for their integrity, business ability and public spirit, and who would make ideal public officers, from being candidates under this system. The result is that public office will continue to be the inheritance of a class of men who continually seek office.

Mr. Philip called the attention of the Committee to the character of the advertising, and during the recess the Committee visited the public library and examined files of city papers which were filled with sensational advertisements of candidates before the primary.

This system will work better in a small subdivision where the people may know the candidates than in a large one. The larger the population the more complicated must be the machinery.

Referring again to the use of money he said that the idea that the people would be so aroused as to prevent the occurrence again of the use of so much money in obtaining an office, was not in accord with human nature; that if any of the money was used for the purpose of debauching voters the man once debauched will be more easily debauched the second time.

The interest is usually centered upon the head of the ticket and the public generally takes but very little interest in the balance of it. He did not think the proposed "second choice" plan was feasible, as it would be confusing to the voters. Published articles upon the Primary Law by Mr. Philip were furnished by him to the Committee and appear in the record at pages 1829 to 1853, inclusive.

His conclusions, separately numbered under the title of "Tried and Found Wanting," appear at page 1839.

Dr. J. M. Biffel, a physician and surgeon of Milwaukee, who

has never held any political office, but has been interested in politics and as a member of the State and county Republican committee and treasurer and chairman of the city committee, thought that the Primary Election Law was based upon a proper theory that the people should nominate their candidates with as little machinery as possible and that there should be few, if any, middlemen between the people and their candidates; but when it comes to practical operation of the law there are inherent defects which appear, not only to the exponents of the law, but to its original enemies. These inherent defects the doctor mentioned quite at length along the same lines described by Mr. Philip. He emphasized considerably the power of the public press whose influence has been purchased by a political boss, or which is owned by some prominent political leader.

If there is to be a change from the representative system to the direct system he thought it should be gradual and not so radical as in Wisconsin.

Before a nomination is made for a public office, as a rule, there is no clear consensus of opinion or crystalization of thought of the people on one or two men for that office. In other words, the people do not know who their candidates are to be until the candidates select themselves.

Hon. Edward Scofield, former governor of the State of Wisconsin, was unable to appear before the Committee in person but communicated his views upon the Wisconsin primary in a letter addressed to the Committee under date of August 18, 1909, which appears at page 1932 of the record. His observations were of a general character and his conclusions substantially the same as those given by Mr. Philip, which have been referred to at length. He says: "I have no hesitancy in declaring that every objection raised to the primary election idea previous to its enactment into a law has been sustained by the practical test given it in this State in the several elections held under its provisions. Every disadvantage pointed out by its opponents, and many not anticipated, have been shown by its operation, and it is difficult to say wherein it has demonstrated any very great advantage over the old convention system."

As an instance of the inability on the part of the public to

know who the candidates were he cited the case where two years ago the richest, most important assembly district in the State of Wisconsin was represented in the lower house of the Legislature by a colored man of no special ability. After the election, when the newspapers began to comment upon the election of a colored man to represent this important district, there was an uproar which showed plainly that the majority of the voters of that district would not have voted for the candidate had they known that he was colored. Had he been a man of extraordinary ability the fact of his color might have made no difference. Instances of the election of totally unfit men might be indefinitely multiplied, and in every case the election was due to the voters' lack of knowledge of the candidate. (1937.)

Governor Scofield, referring to party allegiance, said (1940): "I am just old-fashioned enough to believe that the best safeguard of the public interests lies in two strongly organized, evenly balanced parties. I am a firm believer in the old doctrine of party allegiance, and I believe that the present breakdown of party lines is leading us into danger."

He attributed the disruption of the parties to the operations of the Primary Law.

"If," said he, "the Primary Law can be successfully operated at all, it is only in the small political unit where men know each other, but it has shown its weakness in even so small a political unit as an assembly district, but I believe that it has a sphere of usefulness in the town or ward election, and in the election of delegates to conventions it is far better than the old-fashioned caucus."

He referred to the General Primary Election Law in Milwaukee prior to the present law for the election of delegates and minor offices and it seemed to work well, and said that if this law had been applied to the whole State for the election of delegates to conventions, and if there had been a law compelling the holding of these conventions by all parties on the same day throughout the State, it would have cured nine-tenths of the ills complained of under the old system.

Mr. E. T. Melms, a member of the Socialist party and an alderman in the city of Milwaukee, and chairman of the State Com-

mittee of the Socialist Democratic party, spoke of the attitude of the Socialists toward the Primary Election Law, and said that it was complied with by the Socialist Democratic party only in so far as they were compelled to comply with it by law. They felt that the method of organization that they had maintained for a number of years prior was an improvement over the present law. They select their candidates by a process of referendum among their members, who are a due-paying organization, as they are firm believers in the "initiative" and "referendum," and these candidates were placed upon the primary ticket by authorized petition so that but few votes were necessary to nominate them. He denied, however, that the due-paying members of their organization participated in the primaries of the other parties, as is generally charged by the members of the other parties. The organization has become exceedingly strong in the city of Milwaukee, casting frequently more votes than the Republican party and nearly as many as the Democratic party in that city.

Mr. Melms said that he believed that every voter should be able to read and write sufficiently to cast his own vote without the assistance of the inspector, as is frequently done now. Under this system men are practically dragged to the polls, men who don't know how to vote and are voted like cattle. He would prohibit the expenditure of any money for conveyances for taking people to the polls.

Their method of selecting candidates within the lines of their own party and of placing the name of but one candidate for the office upon the primary ballot keeps the party loyal and absolutely prevents the bitterness so frequently aroused in primary contests.

Not all the witnesses, who appeared before the Committee in the city of Milwaukee, either voluntarily or upon invitation, took a pessimistic view of the Wisconsin Primary Law. Among the strong advocates and defenders of the law were:

Francis E. McGovern, a lawyer of ability, who was elected district attorney of Milwaukee County upon an independent ticket in 1906, after he had been defeated in the Republican primary. Mr. McGovern was also one of the four candidates for United States senator in 1908 and was defeated there. His evidence, which is found at pages 1655-1702 of the record, is a strong and

eloquent academic plea for the direct nominations system. He said: "I think I can speak impartially in this matter because every time I ran as a candidate under the old system I was elected, and every time I have sought nomination under the new system I have been defeated, but my belief in the wisdom and in the merits of the Primary Election Law is just as strong as it was when the law was proposed for enactment.

He believed that the Primary Election Law placed in the hands of the people directly the power of making nominations and by so doing practically abolishes this function of the political party. That it makes the public officials more directly responsible to the people and is a means towards the realization of the ultimate rule by the people in the sense in which the idea was entertained by those who founded our government.

He did not believe there was so much bitterness as the result of the primary as there was under the convention system. While a great deal of money was expended by individuals, he did not regard that as a feature of the Primary Law and thought that the expenditures were as large under the old system, but were not disclosed.

In his judgment, the law has a tendency to make the majority party stronger and the minority party weaker; it tends in a measure to disintegrate the minority party, but thought that the result of that would be more independent members of the minority party, who would go over to the majority party, especially if there is a contest going on of sufficient interest to attract them, and if it is a contest of principle, if it is a matter that involves public welfare then the rallying to the support of the right element in the dominant party might be a good thing from the standpoint of the State.

The experience of Wisconsin under the primary election law, he thought, had disclosed defects in their particular law, the most important of which was the participation of members of the minority party in the majority party's contest, for the purpose of nominating weak candidates or for the purpose of carrying out a political program that has been arranged before hand, but he thought that the so-called 20 per cent amendment before referred to would remedy that. Also the fact that the names appearing

at the head of the ticket had a decided advantage was remedied by the rotation system which has been adopted.

The "second choice" proposition is still a matter of speculation.

The fact that voters did not discriminate as disclosed by the advantage obtained by the candidate whose name happened to begin with "A" is not, said he, an impeachment of the principle of the law, but of the intelligence of the voters, and if the law could be in operation long enough, the voters would become more intelligent. That any logical objection to the Primary Law is equally an objection and criticism of our whole form and theory of government. It is a criticism of popular rule, and the answer is not to do away with the Primary Election Law and thus avoid the evils of popular rule, but to remedy the weaknesses in the electorate by giving them an apportunity to exercise this power, and thus in the course of time to develop a sufficiently high stage of citizenship so that no man will vote for another because his name begins with A or Z.

Formerly in the State of Wisconsin, naturalization was not required to entitle a person to vote, but any person who had lived a year in the State and ten days in the election precinct, might vote for any and every office. Many could not speak the English language at all. This has now been remedied so that a man must be a fully naturalized citizen in order to vote, but there were still many who lacked sufficient education to vote intelligently.

The people did not take so much interest in the primary as had been anticipated, which Mr. McGovern attributes to the fact that under the old system the people generally were not accustomed, in the selection of delegates at the caucus, to attend; but after they became aware of their power in the primary there would be a larger participation.

He did not think that the organization built up by candidates before the primary and continued by the successful candidate after the primary could be in any sense called a political "machine." Each candidate gathers about him his political friends and supporters and has a list of names to whom he sends political material and a number of assistants and friends upon whom

he calls for assistance; that there is a vast difference between an organization like that and a political machine.

Mr. Henry L. Cochems, a lawyer of the Republican faith, and resident of the city of Milwaukee, who has on several occasions been an unsuccessful candidate for Congress, was before the Committee. Mr. Cochems will be remembered as the gentleman, who, at the last National Republican convention, presented the name of Senator LaFollette for President.

He followed substantially the same line of argument presented by Mr. McGovern. He gave it as his impression that the Primary Law has been a vast improvement on the conditions that existed under the old conventions system, and thought that the error of a great deal of the testimony and argument made against the Primary Law arises from the fact that in contesting the law, they criticize the machinery of the primary for a great many things that are inherent in the electorate, in the body of the voters themselves.

Necessarily more money was spent by candidates under this system because they had to come in contact with the people and not with the few who might control nominations, but the money spent in billing the county or the State, in advertising in newspapers and seeking to bring the attention of the voters to the virtues or the professed virtues of the candidate was an educational feature.

Mr. Cochems thought that the primary election system could be improved by the addition of a second choice. He commended Mr. McGovern, who had repudiated the primary in his candidacy for district attorney of Milwaukee county and had become an independent candidate, because he did not believe the primary represented the real sentiment of the Republican party.

There are some things that occur in the primary which are unfortunate, but these things might challenge the wisdom of our systems of election. "The primary election system," said he, "puts a premium upon the eleventh hour slanderer and assassinator of character. I was a candidate myself for Congress here and at the eleventh hour, when I thought I had my fight won under this primary system, I found that the gentlemen opposing me had had in cold storage for three weeks a lot of untruthful

and perverted statements, which they saved until the Saturday preceding the Tuesday's primaries; so that it affords opportunity for men so disposed to fill themselves with that character of evidence that brings its penalties in due season" (1726). What he called the "picturesque side of politics" is, in a measure, lost under the primary system — the opportunity which young men have to exploit themselves and express their views in a convention.

He did not believe that the geographical location of candidates or their selection for race or business reasons had any particular place in the selection of the best men for the respective offices.

Hon. H. L. Eckern, of Whitehall, Wisconsin, now deputy insurance commissioner, and formerly speaker of the assembly, also presented his views of the Wisconsin primary, following substantially the same line of thought presented by Mr. McGovern and Mr. Cochems. Mr. Eckern also, it will be remembered, was defeated for renomination to the assembly in his own district as a candidate upon the Republican primary ticket, and after his defeat at the primary became an independent candidate by petition, and Senator LaFollette came into his district to assist him in his candidacy. He was defeated, however, and was then appointed to the position he now holds.

One of the principal advantages of the primary system was that the people have two chances to select good men for office and eliminate those who are unworthy.

While a large amount of money is expended in the operation of the Primary Law, more than Mr. Eckern believed to be desirable or necessary, still he claimed that there were cases where large sums of money had been expended under the old system.

The expense is transferred very largely to the contest in the primary and after the primary is settled there is not very much expense at the election. If the parties were nearly equally balanced it might be necessary to expend more money during the election. He thought there should be some limit to expenditures and to the methods and objects of the expenditures.

If, however, the expenditure is limited for the dissemination of information one of the purposes of the Direct Nomination Law is defeated under present conditions. It is absolutly necessary that candidates and parties should be permitted to expend money

for the purpose of putting out educational matter, either in the form of literature or speeches. Mr. Eckern thought that a serious defect in the law was the failure always to secure a majority nomination; that under the old convention system this was obtained; that under the present method a compact minority by concentrating its vote on one candidate nominates its candidate as against the majority which scatters its vote among a number, and that for the purpose of meeting this defect it will be necessary at some time to adopt a second choice or something of that nature. He said that they would like to have adopted the "First and Second Choice" Law, and thought if it had been enacted in the first place the voters would easily have become used to it and it might have obviated a great many other difficulties.

In the Legislature since the law came into effect there are still minority and majority leaders, but the recent Legislatures have not divided sharply on party lines. Comparatively few measures have been stamped strictly "party measures;" one reason for that in Wisconsin has been that both parties are split into two factions and the line between the two factions in each party is quite as distinct as perhaps between the two parties on state questions."

While in State and national politics the Republican party wins as a rule, the majority of the municipalities and larger cities are under Democratic rule.

Mr. Eckern thought that the system of electing delegates at primaries is far superior to the old caucus system, but believed that the complete primary is superior to both.

The leaders of the party frequently get together before the primary and endeavor to agree upon particular candidates and specially the factional leaders, in order to reduce the number of candidates so as to insure the nomination of their own men.

Observations on the Wisconsin System.

1. That is the only State where special investigation was made which has adopted the so-called "open primary." While advocates and opponents alike condemn the practice of members of one party voting the primary ticket of another, nevertheless there seems to be a strong sentiment against the abolition of the open primary, and adopting any form of enrollment which will

tend to prevent this practice. Some claim that to deprive a voter of the right to participate in any primary he pleases or to change his politics as frequently as he may desire is an interference with his constitutional rights, and that it will be utterly destructive of all independent action or participation in any of the primaries, and one of the principal objects of direct nominations is to prevent the dictation of nominations by political organizations or political bosses.

2. In no state which we have studied are factional differences so marked and party organizations and discipline so broken up. While this seems to be admitted by all, there is a difference of opinion as to whether such conditions existed to any extent before the enactment of the Primary Election Law and whether it has increased since its operation.

We are inclined to believe that the preponderance of evidence indicates that the majority party factional divisions have become more pronounced through the operation of the primary law.

3. The first experiment of Wisconsin in the nomination of United States senator at the primary is exceedingly unfortunate, to put it mildly. It is a matter of public scandal, and the evidence taken upon the investigation by the Legislature subsequent to the primary may be read with profit and furnish a warning to other States who may be tempted to adopt this method of ascertaining the sentiment of the people in the selection of a United States senator. That the enormous amount of money expended by the successful candidate, who received but thirty-one per cent of the Republican vote cast, was instrumental in subverting what might otherwise have been a popular choice, cannot be denied.

4. We commend biennial elections and longer terms for member of assembly, senators and the governor, if primary elections are to be had, so that political excitement may not interfere with the orderly conduct of business to such an extent as would be the case under a system of this kind where annual elections are held.

5. The rotating system, where so many offices are to be filled and where there are frequently so many candidates for a single office, is essential to a fair distribution of the vote cast by the many, who either are unable to discriminate intelligently or do

not take the trouble to do so, except for the principal office at the head of the ticket.

6. The large percentage of the majority party primary votes cast does not indicate a large participation on the part of such party voters, but a comparison of the returns indicates that quite a large proportion of those voters are members of the minority parties, who either because of urgent solicitation vote for candidates upon the majority primary ticket or by concerted action do so for the purpose of nominating a weak candidate, whom they seek to defeat at the election.

7. The amendment to the law made by the last Legislature under which the party candidates for any office must together cast at least 20 per cent. of the party vote, or be excluded from the party column upon the election ballot, may have a tendency to prevent indiscriminate cross voting between the parties, but in cases where there are no contests, it is liable to operate to the injury of a candidate, who must, under such circumstances, make an active canvass to get out his party vote or be deprived of the party privilege upon the election. We do not regard the amendment as of any value and believe that its results will be more harmful than otherwise.

8. We cannot concur in the view that is expressed by some of the witnesses that the largely increased use of money in primary campaigns has any educational advantage. From an examination of the character of the advertising, self-laudatory statements of the candidates and extravagant claims made by them through the public press and by other printed matter, we believe that such methods are calculated to confuse and deceive voters, who have no means of determining the truthfulness of such statements. The use of so much money in a primary campaign cannot do otherwise than corrupt and debauch the electorate and the demands of the venal and corrupted voter will constantly increase under any such system until a canvass by a man of moderate means, who might even be willing to expend the money if he had it, is practically prohibited.

9. The methods practiced by candidates of hiring solocitors to obtain signatures to their petitions results in no expression of the sentiment favorable to the particular candidate, and the peti-

tions thus obtained are utterly valueless as indicating any public choice or crystallization of the better thought of the community in favor of a particular candidate. The voter at the primary thus cannot vote for the man of his choice, but is simply permitted to discriminate between the several persons who have nominated themselves.

ILLINOIS.

The Law.

The State of Illinois has been peculiarly unfortunate in the enactment of four primary laws, which have subsequently been declared unconstitutional by the highest State court.

At the time of our hearing in Chicago, August 23 and 24, the State had no Primary Election Law, the last act having shortly before been held to contain provisions contrary to the State constitution, and the entire act became void and of no effect by this decision. This was the law of 1908.

Under this law, however, primary elections were held in 1908. It was State-wide, mandatory, conducted under the General Election Law with a fixed time and place for all parties jointly.

It applied to all offices except presidential electors, trustees of the State University, township and school electors; there was also an advisory vote on the United States Senator.

The names of the nominees were placed upon the ballot by petitions varying from ten to one thousand, and a candidate for a State office must have not less than one thousand nor more than two thousand names. Separate ballots of different color were provided for each party and the names of the candidates were arranged under the designated offices in the order of filing, or of the record of filing of the nomination papers. The nominations were made by a plurality vote and there was no provision for a minimum vote.

Party officers, including County Central Committees are chosen by the direct vote, and delegates to State convention are in turn chosen by the County Central Committee. The State convention adopts the platform of the party. Precinct and State committeemen are also elected at the primary by direct vote. Any party which casts two per cent. of the vote is subject to the law.

There is no enrollment provision, but voters at the primary must declare their party allegiance if required.

Operation and Results of the Primary Law in Illinois.

The Committee is under obligations to Professor Charles E. Merriam, of Chicago University, for great assistance in obtaining data and general information as to the working of the Primary Law in Illinois. Professor Merriam also assisted largely in obtaining the witnesses who were good enough to appear before the Committee. He will be recalled as the author of the book known as "Primary Elections." He is a man thirty-five years of age, who has been for nine years in the city of Chicago, was formerly a resident of the State of Iowa, and at one time a resident of the State of New York. He is teacher of political science in the University of Chicago. He became interested in politics in seeking the office of alderman of the city under the direct primary, and is now the alderman from the Seventh ward. Professor Merriam, while admitting many of the unfortunate developments of a direct nomination law is nevertheless an enthusiastic advocate of the law, both for local and municipal purposes and as a State-wide proposition.

Cook county had a legalized caucus system for a number of years and the practice in that was for the leaders of the organization to make a slate, which was submitted to and ratified by the convention. This practice is still continued under the Primary Law, and in most cases the slate nominations have been ratified by the party voters, though there have been some exceptions and some close contests. The remarks of Professor Merriam were largely along academic lines for the reason that Illinois has had but one real trial of a State-wide primary and results can hardly be expected from so short a trial.

He thought that it had the effect, which can also be obtained under the old system, of putting the party organization in the hands of the voters. He referred to the practice in New York in some cities like Rochester where the committeemen are elected at the primary, and commended it.

In congested districts, it is difficult for the mass of voters to discriminate except as to the principal offices upon the ticket. The ticket is very long, similar to the ticket in New York. Only a short time ago there were sixty-seven different offices to be filled and four or five candidates for each office, that is over 300 names

on the ballot. These were not presidential electors; they were candidates for various offices from State down to local judges. This was not a primary ticket, but an election ticket. The State primary is not held at the time of the city primary. In the city primary the ballot contains about forty offices and from one to six candidates for each of these offices. One primary ballot furnished the Committee contained 192 names.

In regard to the method of campaigning and advertising, Professor Merriam thought that it was after all educative, although there is friction, falsehood and suppression of the truth, but out of it all you ought to get somewhere near the truth. He would not commend, of course, the use of misleading and exaggerated statements in advertising candidates, thought that a limitation of the expenses and the publication of the personal notices of the candidate somewhat after the Oregon method might be desirable. There is no corrupt practices act in Illinois and no limitations upon methods or objects of campaign expenditures.

In regard to city politics, the professor suggested that it should be optional with the locality as to whether they should hold direct primaries or have nominations by petition, as the whole matter of city parties is in obeyance; nobody knows what will be adopted. He would like to see the experiment or direct primaries tried out in Chicago, but would not apply to the judicial or school officers whom he would rather see nominated by petition.

He thought it was a bad feature of the Illinois law that permitted the participation of members of one party in making the nominations of another, and if it could be prevented, it ought to be done. He favored a small number of signatures upon nomination petitions, so as not to make it too difficult for independent candidates to obtain the necessary number in order to get upon the ticket.

In regard to the order of printing names upon the primary ticket, Professor Merriam thought that their law, which requires them to be put on in the order of filing was the worst possible method that could be devised, that the scientific method would be to put them on in alphabetical order and then rotate them as required in many States. In this connection a brief reference to the evidence of other witnesses will be profitable. The practice

in Chicago was for the Executive Committees of the Republican and Democratic organizations to make up their "slate" of nominations, procure the petitions to be executed, and place them all in the hands of a representative of each party. These men and others who were independent candidates for nominations took positions in the line at the place of filing from twelve hours to three days before the hour for receiving such petitions. With one to two exceptions the organization representatives succeeded in getting the first positions and in getting their candidates first on the ticket. In the instances in which an independent candidate succeeded, such independents who obtained first place upon the ticket, were nominated. Without exception, every witness, whether friend or foe of the direct nomination system in Chicago, maintained that the first place for minor offices, where there were a number of candidates, was almost certain to bring success to the lucky holder.

When asked for his views concerning that part of the proposed Hinman-Green bill, which provides for the selection by a party committee elected at the primary, of candidates, who should be given preferential positions upon the primary ticket, Professor Merriam expressed himself as strongly opposed to this idea. He said it would give the party organization a very decided advantage and a big long handicap in the race; that it would materially assist in maintaining the people who are in power, and might make it very difficult for anybody to overthrow them.

Mr. G. Fred Rush, a lawyer and Republican in politics, presented to the Committee, an address generally commending the Direct Primary Law of Illinois upon principle; he claimed it was "good for the party and for the people and a clearing house for candidates."

It is quite impossible for the mass of voters to select intelligently candidates for minor offices, in large territories and in theory the convention chooses better candidates. The candidates at the head of the ticket always receive many more votes than those further down the line.

Referring to the decision of the Supreme Court, which declared the Illinois law unconstitutional, it seems that the court took the position that in reality the primary is an "election" and that there was no proper provision made for minority representation, which

is required under their constitution. That part of the decision, which is of interest to us has reference to the registration requirement, the court holding in substance, that it was unfair and improper to require a voter to register so long before the primary, and that it adds another qualification to entitle one to become a voter, which is not required by the Constitution.

Mr. Rush maintained that notwithstanding the fact that the organization selects ninety per cent. or more of the party candidates, it made its selection more carefully than under the convention system.

Mr. George C. Sikes, not being able to be present in person, sent a written communication to the Committee, which is printed in the record.

Mr. Sikes took the position that if the State is bound to recognize parties, he would prefer a direct system of nominations rather than a representative system. He went, however, to the other extreme and took the position, which is held by a considerable number of intelligent people, that the State in this country has taken altogether too much control of political parties and has gone altogether too far in according them recognition. This he called "objectionable paternalism." He believed that "the State should merely safeguard the elections and should make provisions for a simple form of ballot and undertake to exercise no control whatever over the organizations which groups of people may form for the purpose of giving effect to their political views." The party has been given a legal status and a position of advantage, and upon this theory "The State must logically go further and assume still larger jurisdiction over party organizations, or retrace its steps completely."

Mr. Sikes preferred that the State should retrace the steps and cease to give any legal recognition whatever to party organizations.

Mr. George A. Cole, a commercial printer and at one time president of the Legislative Voters' League, expressed himself as generally in favor of a direct primary law. He made the charge that the Legislature knew that the last act passed by them was unconstitutional and passed the law for the purpose of keeping the control of the Legislature instead of passing a proper bill.

Illinois has no legislative districts, but has fifty-one senatorial districts, from which one senator and three members of Assembly are elected. There is a method of cumulative voting by which a person can cast three votes for one candidate for the Assembly or one and a half votes for each of two candidates or one vote for the three candidates. The primary law neglected to make proper provision for this condition. Outside of this defect, Mr. Cole thought the law was a good law and worked well.

He thought that a voter should be permitted to decide at the primary which party he wants to vote with if he only votes one; that there should be no restriction and yet he said that he believed in party nominations, but how it could be worked out in fact so as to permit the voter to exercise his choice at the time of the primary the witness was unable to say.

He maintained that a man has a right to change his party from day to day and has a right to change his mind as frequently as he sees fit; that if there was a law prohibiting voters from choosing any ticket indiscriminately at the time of the primary, they would violate it, that they did it illegally wherever the law attempted to prevent it, and under such circumstances he would "let the daylight in" and let every voter decide what ticket he wants to vote at the time of the primary, substantially as is done in Wisconsin.

Mr. Edward F. Dunne, mayor of Chicago from 1905 to 1907, commended the law and regretted the fact that it had been declared unconstitutional. He also advocated the passage of a new law, which would avoid the mistakes of the former law. The main advantage of the law, in the judgment of Mayor Dunne, was that it forced political parties to look more carefully into the personnel of candidates that they select for public office.

While he thought that prior to the passage of the law, it was the aim of party organizations to select men of character, but men who would be docile to party organizations, the mayor stated that he had heard objections made by men who had sought office under its provisions to the effect that it is expensive; that it entails upon the candidates for office, who have not the patronage of the organization an expense that was unknown to the old law. Mr. Dunne thought that this was true, because candidates were com-

pelled to exploit their advantages to some extent, but that the money now expended was in the open and not in secret, as under the convention system. More interest, in the opinion of the mayor, was taken by the electorate under the Direct Primary Law than under the former practice, but the platform and declaration of principles should be left to conventions. It is also true that the Direct Primary Law gave greater power to the press.

Mr. Dunne also recognized the advantage of position at the head of the ticket and said that he could not understand why it was so, but it was the fact, that if a man gets his name at the head of a primary ballot, in nine cases out of ten he is successful; if he is down near the end of the ticket, no matter what his qualifications are, generally he is unfortunate. He also advocated the rotating system as being as fair as any method by which this difficulty could be overcome, "but," said he, "I hold that the voter ought to select men on account of their personality rather than on account of the place they hold on the ticket." (2187.)

The mayor recalled one instance in which the Republican organization slate was broken, but in nineteen cases out of twenty the organization had succeeded in putting their men in nomination, so that the result, so far as the candidates are concerned, was not materially different from what they probably would have been under the old system.

Upon the subject of party enrollment, the mayor said that there were a good many men in the community like the butcher, grocer or haberdasher, who were dealing with their neighbors, who would be willing to go to the primary and vote a secret ballot, but did not wish to declare their party affiliations in the open; such men, however, ought not to control party nominations.

To avoid the evils of a small plurality nomination, the mayor was inclined to favor the "second choice" propositions.

It will be remembered that Mr. Dunne was elected mayor of Chicago as a Democrat upon the platform advocating municipal ownership of street railroads. To the committee, he expressed his strong believe in the initiative, referendum and recall.

Mr. John P. McGoorty, a lawyer of prominence and at one

time a Democratic member of the State Legislature, referring to the primary laws enacted in Illinois, characterized the law of 1905 and the law of 1906 as belonging to the "double-barreled system," that is, retaining a delegate and convention plan, both of which were declared unconstitutional by the Supreme Court.

The law of 1908 was the first Direct Primary Law in Illinois, but it was not entirely an innovation in the State, as the Crawford county system of Pennsylvania had been working as a sort of voluntary primary system in a number of the rural counties in Illinois.

Under ideal conditions, the witness expressed the belief that the convention plan of nominating is the ideal one for reasons that are obvious, but that the Direct Primary Law came as a protest against the influences which have controlled nominations through delegate conventions. It was his observation that while the people generally were disappointed in some of the workings of the primary law, yet on the whole they regarded it as a distinct advance over the old system.

The most general dissatisfaction arose from the fact that the voter had to declare his party affiliations. Mr. McGoorty stated that he had concluded from his examination of the operation of various systems in the different States, that the Wisconsin plan was preferable. There were not only a great many business men, but many employees in manufacturing centers who were unwilling to enroll for fear it might injure their business, or their standing with their employers.

Plurality nominations are not ideal and if the plan proposed by Senator LaFollette of Wisconsin, the so-called Marion plan, the process of elimination can be worked out so that in the last analysis a majority of the electors have succeeded in nominating a certain candiate, the witness believed that the last and greatest objection to the primary would be removed.

The direct primary works more satisfactorily in the smaller political divisions than in large centers of population like Chicago, with various foreign populations, many of whom do not read the English papers and do not or cannot closely follow public affairs; it is also true that the benefit of the direct primary is not as apparent in more sparsely settled communities.

The organization which controls the convention has generally succeeded, but the primary is a check upon it.

He advised that the primary day should also be the first day of registration, which would induce a larger number of voters to attend.

Some witnesses were examined by the committee, who disagreed radically with the views expressed by the witnesses whose names have been mentioned, so far as their advocacy of a direct nominations law for the State of Illinois is concerned. These witnesses were inclined to view the situation in the State and in the city of Chicago as it is actually found rather than to imagine ideal conditions, in which the voters were of substantially equal intelligence, equally patriotic, and were generally possessed of a correct knowledge of character and ability of the men who might offer themselves as candidates for the public service.

Mr. W. S. Struckmann, assistant county attorney, asserted that in the direct primary the voters exercise their choice as to candidates only in a very limited sense, that is, as between the men who have nominated themselves, who may be either incapable or unworthy, or both. He contended, however, for a legalized primary, for the election of delegates to conventions, who would be held to strict accountability for their conduct at such conventions.

The party organizations had in nearly every instance, under their direct primary, succeeded in carrying through the "slate" previously made up by the executive committee of each party.

During the last pre-primary campaign no attention was paid to any part of the ticket except to the governor and United States senator, and the contest between the two candidates for governor, Mr. Yates and Mr. Deneen, was very bitter and this resulted in widening the factional breach in the Republican party.

Mr. Deneen carried the primary by about 21,000 votes, but at the election which followed the Taft electors carried the State by about 195,000 votes, while Mr. Deneen was elected governor by only 23,000 votes, showing that approximately 172,000 Republicans did not vote for the Republican candidate for governor; if it had not been presidential year a Democratic governor would undoubtedly have been elected.

Mr. Frank D. Ayer, a lawyer, Republican in politics, and former city attorney, and now the attorney for the board of election commissioners of the city, characterized the direct primary as "a game of chance," and said that in large or congested communities you might as well throw a handful of pennies to a mob in the street and expect the best man to get the most as to expect them, if you should throw them a bundle of candidates, to select the best man; there is no greater likelihood that the mass of voters who are given a primary ballot, such as the Illinois Primary Law legalized, will select worthy and fit candidates for other offices than the head of the ticket. While the voters ordinarily will express an intelligent choice as between the rival candidates for a great office like governor, it is impossible for them to do so, and in fact they do not do so, as to the balance of the ticket. He also contended that the mass of voters did not take the interest in the primary which was expected, that less than 50 per cent. attended; there were too many elections and the expense to the public was too great.

While the special object of the law was to prevent the organization from dictating the candidates, it had proven itself 99 per cent. a failure in that respect, as all organization candidates had been nominated except in one or two instances where the organization had failed to get its candidates at the head of the ticket.

Hon. Edward D. Shurtleff of Marion, Illinois, who is practicing law in the city of Chicago, who is the present speaker of the Illinois House of Representatives and has held the same position for the last three biennial sessions, appeared before the committee. He stated that the direct primary question had been agitated for six years of his experience and several bills had been passed. He has been opposed to the direct primary principle pure and simple, but at the special session of 1906 advocated a convention bill, which provided also that there should be an official ballot upon which the voters voted directly for their choice of candidates for the purpose of instructing the delegates; it proved a failure, however, and was held unconstitutional by the Supreme Court; it did not give satisfaction at all.

Mr. Shurtleff said that he was nominated under the law of 1908 and that if he looked at the matter from a personal stand-

point purely and selfishly, it would be satisfactory to him. The nominations that have been made under that law in the State of Illinois, so far as he knew, have been satisfactory, but the working of the law from a party standpoint has been unsatisfactory, not on account of the results in the primary, but as a matter of principle. It leads to the expenditure of large sums of money; it puts upon the voter the duty of making a selection as between a large number of candidates, whom 95 per cent. of the voters do not know personally, and have no means of learning their character or ability, below the candidates for governor and United States senator.

Voters generally regard the law as an election law and not a primary law, especially in those counties where one party or the other is largely dominant. Under these circumstances they object to being asked to state their politics publicly. The operation of the law in a city like Chicago with fifty to one hundred offices to be filled cannot possibly result in any intelligent choice of candidates. The voter is personally besieged by the candidates running for all of these offices and he is pulled and hauled in many instances where he knows none of them, has not any interest in any of them and could not by any possibility become well enough acquainted with any large per cent of them so as to form any judgment as to whether he should prefer one or the other; voters are simply bewildered by numerous personalities and publications and methods that are used to secure the support of the individual voter.

The candidates who seek nominations upon party tickets do not advocate the principles of their party, but their individual tenets or views, which may be directly opposed by others, who are seeking the nomination upon the same ticket. In fact, it makes these men, who get the plurality, the party itself He is not bound by any set of principles that may be passed at a convention. He cannot establish a party principle by a direct vote unless we take up the referendum ad infinitum. The only way to determine party principles is by the party getting together en masse or by representation in delegate conventions and by argument and counsel and consideration, a majority agreeing on what the party should stand for. That makes the party, and

the men that establish, enunciate and advocate these principles, which a majority of them have determined, constitute in the judgment of Mr. Shurtleff a political party. To have the law step in and allow some one man, who can control 15 per cent. or 20 per cent. of that party by a club, newspaper cajolery, the use of money, the use of patronage or in any other way get more votes as leader than some other man, to become the party itself, is destructive of party organization. That will be the result of a direct primary law if followed out during three or four State primaries.

The strongest advocates of the law in the city are newspapers that recognize no party whatever and the independent voters. In 1906 the strongest argument made on the floor of the house, or while the Assembly was in committee of the whole, for the law was made by one of the most prominent clergymen in the city of Chicago. Theoretically he was right. He said they wanted a law by which he could go into a primary and vote for John Jones, a Republican, for sheriff, and John Doe, a Democrat, for county clerk, and Richard Roe, a Prohibitionist, for county treasurer. This was the Rev. Dr. Jenkin Lloyd Jones. Speaker Shurtleff said that if the plurality primary law stands, he thought that this should be the law, because it is an election law and nothing more nor less, and this would do away with the second election and be a finality.

It is claimed that the primary law is an office holder's law, and this is true to quite an extent, for the man, who has been before the public and has conducted himself reasonably well, has a large advantage over the unknown man.

Referring again to the interest of the voters at the primary and their lack of discrimination, Mr. Shurtleff said that the practice generally was for the leaders in particular districts to take sample ballots and mark the candidates from the top of the ticket to the bottom according as the party leader wanted the precinct or district carried; very large numbers of the voters, estimated by Mr. Shurtleff at about eighty per cent., went to one leader or the other, and had their ballots thus marked, and the voters took them to the polls and marked the tickets voted by them accordingly. In this way it has been notorious that a very few leaders, fewer than those

who make up political caucuses or political conventions, get together and determine who shall be the organization candidates and absolutely fix the slates from top to bottom.

The Independents advocate the law because they think that practices of this kind will offend the voters and that the result will ultimately be to break down party organization.

In rural districts the tendency is for a much smaller number of voters to attend the primaries than in the cities. The speaker lives in a rural district and speaks from experience. Mr. Shurtleff's observation was that the law worked better in a small community where the voters knew each other and could know the candidates for minor offices better than in a larger or more congested district. He also expressed the belief that there were not as many voters now that favored the law since the one trial they had had of it as they did when they looked at theoretically; from what he had heard voters say, they commenced condemning the law when they commenced to use it and the number of those condemning it is increasing very rapidly.

He based his statement more upon what he had been told by other members of the Legislature, who communicated to him the sentiment of their own localities, some of whom had been supporters of the law, but who said that they would oppose it at the next session if advocated. He believed that these men were absolutely honest in their statements, and that when they said they would not vote for another law of this kind, they did it because they felt that their constituencies were opposed to it.

The Committee was very fortunate in obtaining the attendance of Hon. Lewis Rinaker, Judge of the County Court of Cook county, who had occupied that position two and a half years.

Judge Rinaker was a careful observer of the working of the four Illinois primary laws in the county, city and judicial districts, all of which have been declared unconstitutional.

The county judge is required to appoint three election commissioners, who compose what is known as the Primary Election Commission of the city of Chicago. They have the control, management and conduct of all the elections within the limits of the city of Chicago and the town of Cicero, as it is known.

From the records of the office of the Election Commissioners,

Judge Rinaker produced data showing the cost of the city of working the several primaries.

In 1904, each political party held a separate primary on different days and the total cost for the March primaries was	$24,465 84
The May primaries for both parties cost	24,465 84
At that time there was a total of 1256 precincts. The cost of the Primary Law for delegate convention	48,139 69
The primary held in 1905 in a total of 1259 districts cost	21,520 87
The primary held in July of 1906 cost	48,577 05
The primary election held August 8, 1908, under the Direct Primary Law cost	59,718 20

The revised registration of March 19, 1904, was	360,429
The primary election vote on May 6, 1904, was	173,735
This was divided as follows:	
Republican vote	100,040
Democratic vote	73,695
At the election of November, which followed the total vote cast was	371,513
showing that the total primary vote was about forty-eight per cent. of the total registration, and about forty-six per cent. of the vote cast at the election.	
In 1906, the delegate primary was still in effect. The revised registration, March 17, 1906, was	375,251

The primaries were held on the same day at the same time and place under the control of judges and clerks of election. At the August primary the Republican vote cast was	74,030
The Democratic vote was	51,786
Socialist vote	2,939
Making a total of	128,755

At the November election following the total vote cast was. 301,127
showing that the primary vote was thirty-four per cent. of the total registration of that year and about forty-two per cent. of the vote cast in November.

The revised registration, October 17, 1908, was. . . 411,220
Total primary vote cast by all parties August, 1908. 217,034
At the election in November, which followed, the total vote cast was. 387,337
showing that the primary vote in 1908 was about fifty-two per cent. of the total registration and about fifty-six per cent. of the total vote cast in November.

This large percentage is due to the fierce gubernatorial fight and the contest for United States Senator.

A primary was held for the nomination of judicial officers April 13, 1909. The revised registration of March 20, 1909, was. 406,928
The primary vote cast was. 75,962
The vote cast at the election June 7, 1909, was. . . 173,302
showing that in 1909 the primary vote was about eighteen per cent. of the total registration and about forty-three per cent. of the vote cast at the election. This, of course, refers entirely to the city of Chicago and the town of Cicero.

At the judicial primary there were fourteen judges to be nominated and upon the Republican ticket there were twenty-four candidates, the first fourteen being the organization candidates, were nominated, the fourteenth man receiving 25,862 votes and the next man below receiving 7,245 votes.

For circuit judges, the first man Carpenter, got the highest vote. Judge Rinaker produced a Republican primary ticket used in the last primary upon which were the names of 160 candidates for office, and a Democratic primary ballot for the same primary election, upon which there were 187 names.

The judge said that in Chicago there were in the neighborhood of 450,000 men above the age of twenty-one years, and that in his opinion, no man could know very much about other men, when you got beyond 1500 or 2000 at the outside. In a small village or small community, it would be different, but with such tickets submitted to the average voter, as the ones above referred to, it would be physically impossible for any voter to exercise any reasonable degree of intelligent selection or discrimination.

In the April, 1909, primary, there was to be selected candidates of the various parties for one Judge of the Superior Court and fourteen Judges of the Supreme Court. It was stripped from politics. There was nothing to confuse the voter seemingly and it was separated from all other elections, and yet only about eighteen per cent. of the registered vote, or one man out of five, exercised his right; this may be explained by the fact that the voters do not know or do not care, and there is no method devised that will give him the information to enable him to make an intelligent selection.

An active campaign was made by these candidates for judicial honors. Party organizations had their caucuses and there was a very heavy expenditure of money. The conduct of a primary ordinarily requires the expenditure on the part of a candidate of a large sum of money. Judge Rinaker spoke of a common practice of candidates having their lithographs put up and one candidate in 1906 informed him that it cost $1.10 to have each portrait put up and when 1500 or 1800 miles of streets are covered, the expense is enormous.

In referring to the gubernatorial contest between Mr. Deneen and Mr. Yates, Judge Rinaker stated that there was an equally hot fight in 1904 between the same man and Mr. Hoffman under the convention law. Governor Deneen was nominated; at the election which followed, the Republican candidate carried the State by about 300,000 votes and Governor Deneen carried it by 2000 more votes than the President, while in 1908 after the factional fight in the primaries, he received 172,000 less votes than the presidential candidate.

One conclusion from this is that the bitterness aroused by the convention fight is not carried over into the election to the extent

that it is where the fight is made in a primary with direct nominations, although Judge Rinaker thought that some of it might be accounted for by the fact that large numbers of Democrats participated in the primary, who did not vote for the Republican candidate for Governor at the election.

As to whether the continuance of a State-wide direct nomination law would ultimately disintegrate parties, the Judge stated that he knew nothing about this personally, but called attention to an editorial in the Portland *Oregonian* of December, 1907, in which that paper declared that there would be no longer a Republican party because there was no Republican party in the State of Oregon since the passage of their Direct Primary Law.

So far as the selection of candidates is concerned, Judge Rinaker gave it as his opinion that the convention will procure a better class of candidates than a direct primary, not because the voter cannot be trusted, but because he does not know the candidates and has no way to find out.

Judge Rinaker was eminently fair in his discussion of the entire subject and his opportunities for observation of the actual working of the direct primary law of Illinois, particularly in a city of metropolitan size, could hardly be equalled, because the supervision of all these primaries came directly within the jurisdiction of his court.

Observations on the Illinois System.

The Committee did not have opportunity to make a careful examination of the results of the Illinois Primary Election Law of 1908 in rural districts, except as it could obtain information from the witnesses present, who lived in rural counties.

That part of the decision of the Supreme Court of Illinois which treated the Primary Law practically as an Election Law and held in substance that the registration provisions, which did not permit the voter to exercise his privileges at the primary, unless he had made a party declaration, a long time before the primary, is contrary to the constitutional rights of the individual, is worthy of consideration and careful study. While all substantially agree that if party nominations are to be made by members of political parties, a provision of the law, which compels a man, in order to

exercise this privilege to enroll himself as a member of that party a year in advance of the primary should be carefully scrutinized.

The large number of candidates and the large number of offices to be filled in a municipal election in a city like Chicago impressed the Committee that it is unreasonable to suppose that any intelligent selection or discrimination between these candidates can be made by the average voter, or by any large percentage of the voters, intelligent or otherwise, and that the nomination of any particular candidate, who does not happen to have a preferential position upon the ticket is either a matter of chance or the result of persistent activity, solicitation, advertising, or the use of money by the candidate, unless for some reason he is well known to a considerable number of voters.

The operation of the law in Illinois is still in the experimental stage, notwithstanding they have had four different primary laws, the last one, the Law of 1908 being the only State-wide pure primary law with direct nominations for substantially all officers.

While it is undoubtedly true that there were factional differences in the dominant party before the enactment of the law of 1908, still be believe from the history of the operation of that primary, that the factional breaches have been widened and the very great difference between the gubernatorial and presidential votes at the election, which followed, is due to a considerable extent to this factional bitterness.

In the nomination of judges of the courts, a very small percentage of the voters participated in the primary and the organization ticket in every case received the nomination. Such a campaign as was conducted by the candidates for judges at this primary is, in our opinion, undignified and detracts much from the modest self-respect that should clothe every candidate for judicial honors.

Any direct nomination plan, which includes in it the nomination of judges for our Courts of Record will necessarily eliminate or minimize the influence of politics, which influence is making itself felt at the present time in our own State to such an extent that we believe the standard of efficiency among the judiciary must necessarily be raised.

It is unnecessary to repeat here the unsatisfactory results appear-

ing from the operation of the Illinois law, which are similar to those found in other States, such as the large participation by members of one party in the primary of another, the unfortunate element of chance because of the position upon the ticket, which is attempted to be obviated in other States by the rotating system, the power of the press, which derives much financial support through the operation of the primary elections, and the ability of the party machine to select candidates representing it, and in most cases secure their nomination.

Conditions in the city of Chicago are more nearly like the conditions that may be found in the city of New York than in any other place, and the Committee endeavored to ascertain actual results which would be beneficial in advising legislation that shall control the nominating machinery of our metropolis.

There was some evidence going to show that conditions under the old form of caucus and convention were not ideal; that many people felt they did not have sufficient part in the selection of candidates for office, and the new Primary Law was popular among certain people, who felt that there should be a greater opportunity for men desirous of getting into public places, who might not be identified with any particular political organization.

Apparently the law has failed to accomplish the last result and time and experience with such a law can only determine whether after many trials political conditions can be improved under it.

INDIANA.

The Law.

The existing Primary Law of Indiana was approved March 12, 1907.

Several counties in the State, including Marion county, in which is the city of Indianapolis, have had for a number of years some form of direct nominations, and for some years in Indianapolis the Republican party made its nominations by this method, while the Democratic party used the convention system.

The law of 1907 provides in substance that political parties which cast at least 10 per cent. of the total vote of the last preceding general election, in counties having a city with a population of 36,000 or over, shall nominate candidates for county, city, township, judicial and legislative offices in accordance with the provisions of this act. The act is made optional in all other counties of the State, the option to be exercised by concurrent vote of the precinct committeemen of the respective political parties.

The law also provides for the election of precinct committeemen at a time prior to the primary day, each party voting at a different place.

The board of primary election commissioners in counties where the act is mandatory fix the primary day in biennial elections some time between April 1 and July 1; and the city board of primary election commissioners fix the time for the city primary. In counties where the act is not mandatory the precinct committeemen fix the date within specified limits.

It was understood that the act was mandatory in four of the counties of the State and the committee was not able to ascertain that any of the other counties of the State had elected to come in under the law. Any eligible person may become a party candidate by filing with the primary election commissioners a written notice of such candidacy at least five days before the primary. Upon this notice no other signatures than that of the candidate are required, but twenty-five or more voters of a party may file

a petition to have the name of a person placed on the party ballot as a candidate.

The law is not State wide and there is no special agitation to have it made mandatory in other counties of the State, or to extend it to State officers.

A candidate may withdraw by notice in writing within ten days of the primary day. The primary elections are conducted by the regular election officers and the election precincts and voting places are the same as in the election. No personal registration is required, but the voter may be challenged as to his party affiliations. If not, he is entitled to the ticket he calls for; if challenged as to his party affiliations, he must take an oath to the effect that at the last election he voted for a majority of the candidates of the party whose ballot he asks for and intends to vote for the candidates nominated upon this ticket at the coming election.

The ballots are in the usual form, but in different colors for the several different political parties. The law now requires that the names, which are first put on in alphabetical order, shall be alternated so that as nearly as possible an equal number of ballots shall be printed with each candidate's name at the head of the group.

The candidate receiving the highest number of votes is the party nominee. There is no corrupt practices act requiring candidates to file a statement of expenses incurred as candidates before the primary, but certain acts, such as bribing voters, etc., are declared illegal.

Operation and Results of the Primary Law of Indiana.

The committee was able to study political conditions only in the city of Indianapolis. The witnesses who appeared before the committee quite uniformly disapproved of the Primary Law of 1901 and of such modifications of the law and practices which had grown up under party rules relating to the conduct of party primaries as were in vogue prior to the adoption of the law of 1907.

A county primary for the nomination of county, judicial and legislative offices was held in 1908 and a city primary was held

in 1909 shortly before the visit of the committee. The latter attracted wide attention and was commented upon to a considerable extent by the press outside of Indiana, and the claim was generally made that the mayoralty candidates of both party organizations were defeated; that the people of Indianapolis had been much aroused and through the medium of the primary were able to assert their rights and overthrow the political machines, greatly to the detriment of political conditions in that city.

In order to ascertain the actual condition of affairs and the real issues at stake, the inquiries of the committee were almost entirely confined to the operation of the law at the last municipal primary.

Twenty-one witnesses appeared voluntarily and upon the request of the committee and gave their views and their personal experiences at considerable length. These men were newspaper editors and writers, bankers, lawyers, men holding prominent official and political positions and men who formerly held high positions in the administration of the city.

Seven of these witnesses in a general way commended the principle of the law, but nearly all of them advocated numerous amendments providing for a limitation upon the expenditure of money, a proper registration, or some method that would prevent cross-voting between the parties, and some of them advocated quite strongly the holding of the primary upon the first day of registration, so as to secure a larger attendance and more general participation at the primary. Two or three only of these witnesses favored a State-wide primary and most of them expressed the opinion that a direct nomination system was more feasible and would work better in a smaller territory than in a large or thickly populated one.

There was a wide difference of opinion among the witnesses upon both sides of the question as to whether the party organizations were defeated in the last municipal primary, the chairman of the Democratic committee admitting that the Democratic organization was defeated, but claiming that he endeavored long before the primary to induce their candidates to withdraw. Some of those who did not favor Mr. Shank, the successful Republican candidate, made the positive assertion that while the Republican

organization pretended to be supporting one of the other candidates for mayor, almost the entire organization of office holders supported Mr. Shank by their votes and by their influence. Certain it is, reasoning from the number of votes cast for the successful Republican candidate, that the Republican organization, so called, could not have been loyal to his adversary.

The following witnesses in a general way commended the direct nomination principle of the Indiana law:

Charles B. Stilz, real estate and insurance, Republican nominee for councilman in the Fifth district.

Jacob Pratt Dunn, newspaper writer, president of the State library commission.

Thomas A. Dailey, lawyer, Republican member of Assembly which enacted the primary bill.

Henry W. Klausmann, civil engineer and county surveyor, also chairman of the Republican city central committee.

William A. Pickens, Democrat, a lawyer, who was once a candidate for representative, but has never held office.

M. L. Clawson, a progressive Republican, who never held any office, but was once a candidate under the convention system.

Henry Seyfried, a lawyer and Democratic precinct committeeman.

These gentleman quite generally condemned the caucus and conventions held for many years by both political parties, not under any statutory control, having no definite time or place fixed by statute and not required to be open for any certain length of time, and generally dominated by a certain few, who were always in evidence, and for selfish purposes largely sought to control and did dictate and control the nominations. Sometimes the rooms selected for holding the caucuses were packed in advance of the hour, so that citizens who might desire to participate could not enter. It was also claimed that the attendance was very small compared with the voting population, and that only members of the organization or those favored by the so-called organizations had any show of securing a nomination.

From these conditions the legalized primary was welcomed as a distinct relief, because of the fact that they were held by regularly constituted election officers, were conducted in a decently

and orderly manner and a larger number of the voters could and did participate and voted for the men whose names appeared upon the primary ticket.

The necessity, however, for a long continued campaign before the primary, most of the witnesses admitted, operated to deter desirable candidates, who might be unwilling to expend the money necessary, if they had it, or who might not be in a financial condition which would permit them to do it.

Some of these witnesses declared unreservedly for the initiative, the referendum and the recall, and also expressed the hope that all partisan politics should ultimately be disregarded in municipal affairs and that there should be but one election, substantially after the Des Moines system.

Substantially all agreed that it was difficult to secure desirable candidates for mayor, but some attributed it to the smallness of the salary, $4,000 per annum.

The population of the city is about 240,000; the voting population of the city is about 40,000, and the normal Republican majority is about 5,000; the vote cast at the last municipal primary was approximately 50 per cent. of the voting population.

Some of these witnesses disapproved of the idea of a party enrollment and advised that candidates for mayor should be required to get a large number of signatures upon their petition before they could have a place upon the ticket. Enrollment would prevent participation of independent Republicans and would prevent men changing their party politics in municipal affairs at the time they desired to exercise the franchise in the primary.

Objections were also made to the plurality system of nominating, and many different ideas were advanced to correct these.

In order to ascertain what actually happened in this respect at the last municipal primary, the committee obtained sample copies of the Democratic and Republican primary tickets, which are returned with this report, and upon these tickets we have placed the figures obtained from the election commissioners, showing the vote received by each candidate.

Upon the Democratic ticket it will be observed that the total vote cast for the three candidates for mayor was 14,767. For

the six candidates for councilman of the Sixth district, 12,616, or 2,151 less votes than were cast for mayor.

An examination of the results upon this ticket will show that the four candidates for city clerk, the six candidates for city judge received from 700 to 1,000 less votes than the candidates for mayor, and as you go down the ticket the number of votes for councilmen is considerably less.

It should be explained that the councilmen are nominated from the district of their residence, but are voted for at large.

The same results appear from an examination of the Republican primary ballot. The two candidates for mayor had 18,278, while the four candidates for councilmen in the Sixth district received 13,920, a difference of 4,358 votes.

The candidates for city clerk and city judge received, respectively, 15,573 and 15,948, and the councilmen for the several districts a smaller number as you pass toward the end of the ticket.

Referring again to the Democratic ticket, it appears that there were four candidates for city clerk and the successful one received 37 per cent. of the vote.

There were six candidates for city judge and the successful one received 26 per cent. of the vote.

The successful candidate for councilman in the First and Second districts received substantially 37 per cent. of the vote.

In the Fourth district there were eight candidates; the successful candidate received 3,541 votes, his competitors received 9,059 votes, showing that the successful candidate received 28 per cent. of the vote.

In the Fifth district there were eight candidates and the successful candidate received a fraction over 25 per cent. of the vote, his vote being 3,280 to 9,577 for his opponents.

In the Sixth district there were six candidates and the successful candidate received 31½ per cent. of the vote, having 3,996 to 8,620 for his opponents.

Upon the Republican ticket there were seven candidates for councilman in the third district, and the successful man received 37 per cent. of the vote.

In the Second district the successful candidate received 34 per cent.

In only one office on the Republican ticket where there was more than one candidate and in no office on the Democratic ticket, except that of mayor, did any candidate receive a majority of the votes.

The following witnesses expressed their disappointment with the operation and results of the Primary Law in the city of Indianapolis. Some of them had favored its passage; one or two were members of the Legislature and voted for it there and had changed their views with reference to it, and others condemned the whole scheme of direct nominations:

Adolph Schmuck, chief city editor of the Indianapolis *News*, who usually takes charge of the legislative news, having been connected with that paper for twenty years, an independent Republican.

Henry C. Price, who has resided in Indianapolis for two years and before that lived in New York city, a Republican in politics, a lawyer, having no official position.

Louis Howland, an editorial writer on the Indianapolis *News*.

John W. Holtzman, a lawyer, Democrat in politics, formerly mayor of Indianapolis.

Leopold G. Rothschild, surveyor of the customs of the port, formerly assistant attorney-general of the State.

Gaylord Hawkins, a lawyer, who has never held an elective office or been a candidate for one, but was deputy city attorney and deputy prosecuting attorney.

William A. Ketcham, a Republican, formerly attorney-general of the State for two terms.

William F. Moore, chairman of the Democratic State committee.

Henry W. Bennett, president of the Indianapolis Stove Company, also president of an insurance company, formerly postmaster of Indianapolis, treasurer of the State Republican committee.

Omer U. Newman, a lawyer, Republican in politics, who has never held any political position and does not desire to. He has, however, been actively interested in politics for the past fifteen years.

Albert W. Wishard, a lawyer, who has acted as one of the inspectors of election in his precinct for a number of years. Mr. Wishard stated, among other things, that in his precinct the vote

is about half colored and half white; that 90 per cent. of the colored vote was cast and that only about 10 per cent. of the property holders voted at the primary.

Ernest Bross, the editor of the Indianapolis *Star,* and for five years a resident of Portland, Oregon, connected with the Portland *Oregonian.*

Frank D. Stahlnecker, president of the Capital National Bank of Indianapolis.

The facts presented by these gentlemen may be partially summarized:

The expense to candidates is so great and the organized fight necessary for a successful campaign requires so much personal activity and strain that very few self-respecting competent business men will enter such a contest. Many instances were cited by the witnesses of committees waiting upon men, who might be suggested as competent and desirable and without success because of their unwillingness to become candidates under the direct primary system.

General Ketchum, a man sixty-two years of age, stated that he would no sooner think of entering a contest for an office under this system than he would of taking passage with the Wright brothers in one of their aerial flights.

It was generally conceded that the candidates for mayor upon both Republican and Democratic tickets were not high class men from an individual and business point of view and did not command the hearty support of the community; other candidates were sought, but refused to enter the race, unless the men, who had announced themselves, would withdraw.

The primary was held at a time when a very large number of business men and men of the wealthier classes were away from the city upon vacations and only a very small percentage of what is known as the North Side were at the primaries.

There is almost universal disappointment at the result.

So far as councilmen is concerned, it was generally agreed that from the material presented, the best men were selected. It, however, appeared that the newspapers and the Anti-saloon League, an independent organization having no party affiliations, with one exception, agreed upon the ticket to be nominated and advised

voters throughout the city to make the selection, which they ultimately did.

One of the unsuccessful candidates for mayor spent upwards of $8000 in the primary campaign and many of the councilmen spent more than their salaries.

Newspaper advertising was generally indulged in.

The prospect of two strenuous campaigns also deters many men from seeking office through this method.

The machine organizations, directly or indirectly, control the nominations as much under the direct primary as formerly under the convention system.

The operation of the primary destroys party alignments; this may not be objectionable in municipal politics, but the trouble is it extends to State and national politics.

Mr. Bross, formerly of Portland, Oregon, stated that the direct primary law of Oregon had played havoc with party organizations in Oregon. It was his opinion that the advocates of direct nomination laws deliberately intended this result.

One of the witnesses stated that the most popular cry of the day was "ring rule," "gang rule," and other similar expressions, which were made through the public press for the purpose of disrupting party organization.

Observations on the Indiana System.

The Primary Election Law, mandatory in Indianapolis, and three or four other counties of the State of Indiana, lacks many desirable features and among them, registration and party enrollment; and some method of preventing a multiplicity of candidates by a numerously signed petition or payment of a filing fee.

The only requirement now is that a candidate shall be eligible and shall file a notice of the fact that he is a candidate, or have his name presented by twenty-five petitioners.

The fact that the law permits a person to become a candidate within five days of the primary, sometimes brings out "eleventh hour" candidates, who render ineffectual the labors of other candidates who have been making their canvas for months before the primary.

While Indianapolis has had a form of direct nominations under party rule and statute for some years prior to the law of 1907, and notwithstanding the fact that several counties in the State have of their own initiative been nominating their county officers by this method, there is no pronounced agitation for the extension of the system by statute to make it mandatory in other counties, or to make it State-wide; the parties do not advocate it in their platforms, nor does the Executive recommend it. Democrats claimed in their evidence before the Committee that it would have been impossible to have nominated the present excellent Chief Executive of the State of Indiana, Governor Marshall, under the direct nomination system.

The same tendency toward the extravagant use of money in the primaries was apparent in Indianapolis that has been found elsewhere, and the indications and intimations were quite clearly made that the money was not all used for legitimate purposes.

The unsatisfactory results from the pluarlity system of nominations is also quite as apparent here as elsewhere, comparatively few candidates receiving as high as forty per cent. of the vote where more than two were in the field, and in many of the cases, the successful aspirant received less than thirty per cent.

If the statements of the witnesses to the effect that they have conversed generally with their friends and neighbors upon the subject of primary elections be true, it must be concluded that the law has disappointed its friends and is not a popular or satisfactory method of selecting desirable candidates for public office, particularly for the management of municipal affairs.

MICHIGAN.

The Law.

The State of Michigan passed a revised Primary Election Law at the regular session of the Legislature in 1909, but no primary had been held under this law at the time of the hearing of our Committee in the city of Detroit, August 27, 1909.

The law of 1907 was passed at an extra session and was made mandatory for local officers, — the option to be determined by popular vote in the city, county or district. County committeemen were chosen at the primary. Candidates obtained places upon the primary ballot on filing petitions signed by not less than two nor more than four per cent. of the party vote within the county, district or State, as the case might be.

Separate party ballots of different colors were used at the joint primary conducted by the regular election officers and provision was made for rotating the names. A declaration of party was required and a party enrollment before the primary, but provision was also made for an enrollment of new voters or change of party affiliation at the time of the primary.

The nominees for Governor and Lieutenant-Governor must poll forty per cent. of the vote, and if no nomination was made, the State convention which nominated all other State officers, including Justices of the Supreme Court, would make the nomination for Governor and Lieutenant-Governor. As above stated, the law of 1907 was repealed at the session of 1909, and a new Primary Election Law enacted which fixes the first Tuesday after the first Monday of September as primary day, and requires party enrollment on the first Monday of April preceding, but also provided that an enrollment could be made on primary day of new voters or for those who were sick or unavoidably absent from the district on enrollment day. A voter could change his party enrollment only on enrollment day.

The 1907 law, so far as the State is concerned, applies only to the Governor, Lieutenant-Governor and United States Senator; it is mandatory in cities of more than 70,000, and optional in other cities and counties. In counties where county officers are

nominated by direct vote, and members of Congress and State Senators represent but a single county, they are also included in the direct nomination plan.

Delegates to a county convention to elect delegates to the State convention are elected at the primaries and the same provisions for the nomination of other State officers, the use of separate primary ballots of different colors and the alternating of names are continued in the law of 1909.

A voter cannot sign more than one nomination paper and the provision requiring that the candidates for Governor and Lieutenant-Governor shall have forty per cent. of the vote is eliminated from the law of 1909.

There is also provision that a person can only be nominated by one party and if nominated by both, he must within five days elect upon which party ticket he will have his name printed.

There is no corrupt practices act requiring the filing of a statement of expenses incurred at the primary elections, but because of the campaign methods, particularly in the line of advertising through newspapers, posters, etc., the law of 1909 contains some very peculiar provisions, which all the lawyer witnesses, who testified, said were regarded simply as a joke.

Among other provisions is one known as the Anti-Treating Law. This not only prevents the candidate from treating any person to any kind of liquor after he has filed his petition and until after the polls are closed on primary day, but also prevents any one on his behalf from doing similar acts; "it being the intent of this section to prohibit the prevailing custom of treating by candidates for nomination for public office or by any other person on behalf of such candidates."

The candidate is prohibited from posting "upon or in a building, tree, post, fence, billboard, telegraph or telephone poll, vehicle or other object, any campaign card, banner, handbill, poster, lithograph, halftone engraving, photograph, or other likeness of himself, or other advertising matter used or intended for the purpose of advertising or advancing his candidacy for office."

He cannot print or circulate campaign cards, etc., larger than two and a quarter inches in width by four inches in length, except postal cards and letters, and if these cards contain his picture, it

must not be larger than one and a half inches in width by two inches in height, excepting advertisements in newspapers, and if published there, the picture of such candidate cannot be larger than one and a half inches in width by two inches in height. It also attempts to control the size of type and prohibits the newspaper from charging a candidate anything more than the regular rates. This is intended to cure what has become a universal practice among candidates for nomination at the primary.

Wayne county, which includes the city of Detroit, has had for some years a direct nomination law for county and State officers, and the election of party committees. The act of 1905 repealed the act of 1903, and provided for primary elections in March for the April election, and for three days in September in presidential years and two days in other years.

These primary elections were conducted substantially the same as the primaries since adopted, except that the counting of the vote was under the supervision of a Board of Canvassers.

Operation and Results of the Primary Law in Michigan.

A primary election was held in Wayne county, September 21, 22 and 23, 1908. There is returned with our report official primary ballots of the Republican and Democratic parties. Upon the former there is one candidate for Congress, four for State Senator, fifty-one candidates for representatives in the Legislature, with eleven to be elected at large, one for Judge of Probate, seven for Sheriff, three for County Clerk, three for County Treasurer, two for Registrar of Deeds, three for Prosecuting Attorney, three for County Auditor, five for Circuit Court Commissioner, five for Coronor, three for Surveyor, three for County Road Commissioner, six-year term, one for County Road Commissioner, one-year term, and four for County Road Commissioner, two-year term, making sixteen offices to be filled, counting the representatives in Legislature as one, and ninety-nine candidates.

The population of the city is about 450,000, and the voting population about 70,000.

Upon the Democratic primary ballot there was no contest, except three candidates for State Senator, and nine of the names for representatives in the Legislature were written in.

Upon the Republican primary ticket used at a previous election there were eighty-three candidates, with eleven to be chosen for representatives in the Legislature. The votes received by each candidate are shown upon the ticket.

Patrick J. M. Halley, a Democrat, and Corporation Counsel of the city of Detroit, appeared before the Committee and gave us the benefit of his observations of the operation of the Primary Law in Detroit. The Republican majority varies from seven to twenty-seven thousand. Mr. Halley referred first to the first Primary Law in Detroit, that provided for the blanket ballot, each party having a column, but cross voting being prohibited; this was very unsatisfactory, as there were many spoiled ballots, and the Republicans insisted that the Democrats selected their candidates for the purpose of nominating the weakest man, who could be beaten at the election. There was evidently concerted action for this purpose.

This law was changed so as to require separate ballots, but it did not prevent the practice which is almost as frequently indulged in to-day as it was under the first law.

There is substantially no contest in the Democratic party, but it is very intense in the Republican party, and the large number of candidates induce Democrats, as well as Republicans to enter the primaries and vote, as there is very little challanging. Party enrollment may help to prevent this, but inasmuch as there are no contests in the Democratic party, certain elements probably will enroll as Republicans for primary purposes; this practice is destructive of party system.

Mr. Halley expressed some doubt as to the constitutionality of the Enrollment Law and said that if the present court would follow the course of the old court in Michigan, it would be declared unconstitutional.

The Primary Election Law was enacted because of corrupt practices that were frequently indulged in in the conventions in Michigan, and this witness and others mentioned numerous occasions when delegates were openly bought so that it became quite a common practice for certain delegates after the nomination of the candidate for whom they were instructed, to sell their votes to others. The law was passed forbidding a delegate to a political

convention to give a proxy. Before the law was passed, the chairman of the Republican State and County Committee announced that the city ticket on the Republican side would be made up from a primary election and this was done without any authorization of law. Subsequently the Wayne county Primary Law of 1903 was passed.

It would have been better, according to the view of Mr. Halley, to have corrected the corrupt practices at the conventions than to have changed the system. Since the adoption of the new system, there have been many cases of ballot box stuffing, and the purchasing of votes in certain wards along the river front has been open and notorious. There are local bosses or padrones who control whole districts and for a consideration, deliver the vote.

It will be remembered that there are three primary days and that the vote is not counted by the inspectors, but now taken to the Board of Canvassers and it has taken them sixty-four hours to count this ballot, employing sixty or seventy clerks.

So far as the selection of candidates upon the Democratic ticket is concerned, Mr. Halley said that he did not know of any man that had been nominated under the primary system that would not have been the choice of the convention, as they have practically no contests in their party.

The witness stated that if the convention system and the direct primary system were both equally surrounded by legal safeguards and protected by all the legal machinery that surrounds a general election, judging from his personal experience and observation, he would go back to the convention system; that as efficient government would be obtained and as high a class of officials by that method.

Under the primary system, each candidate builds up a machine of his own and responds to that, but not to the people in general. He characterized that portion of the law of 1909, which endeavors to control the size of posters, pictures, etc., of candidates as ridiculous.

Popular government cannot be had without an occasional abuse creeping in and he could see no reason why the whole system should be changed simply because of this abuse; that it was better to correct the abuse than to change the system. That he had seen

more corruption and the use of money under the primary system in the same number of years than had been apparent under the convention system.

Hon. James O. Murfin, one of the judges of the Circuit Court of Wayne county, who was first appointed to succeed Judge Brook and elected at the general election in April, 1909, contributed his views upon the Primary Election Law of Michigan, under which he was nominated to the office he now holds.

The Circuit Court is a court of record having both appellate and original jurisdiction, but from which appeals are taken to the Supreme Court, corresponding with our Court of Appeals.

Judge Murfin is a Republican and has been a member of the Republican central committee of the Wayne congressional district, but is now out of politics.

He first gave the reason for the amendment to the law, which provides for the rotation of the names, and said that it was very noticeable that many voters, where there was a long list of names, marked the first name, giving to the one who was lucky enough to occupy that position a very great advantage and showing that the average voter voted blindly where there were so many candidates. He cited several instances where a number of the candidates for members of the Legislature were nominated on the Republican ticket and made most remarkable records, not that they were dishonest, but they were obviously grossly incompetent. "One of them is a cuspidor cleaner here in the county building to-day and was at that time. It cost him a dollar to get his name on the ticket and they had to put up his dollar and his name happened to be first, and he got next to the largest vote of any of them, and that is the reason that it was actually determined that the names on the ballots must in all fairness to the candidates be rotated.

The judge said that he had been active in State and local politics for years, but when he went to the polls at the last primary he could not vote an intelligent vote to save his life. He was required to select eleven out of fifty-one legislative candidates, and it was impossible to do it intelligently; that he had more than one hundred requests from personal friends, men that he met in professional offices, banks, clubs, etc., who requested him to advise them how to vote the legislative ticket. He finally made

a study of it and having no interest in any of the candidates, simply made a large number of typewritten suggestions and handed them to his friends when the request was made of him.

The newspapers sometimes made up a ticket of their own and advised the people as to which names to vote for, and many intelligent men, relying upon their newspapers, would take with them this advice into the polls and mark according to the suggestions made in the paper.

One of the most vicious provisions of the law is one that provides for assisting the unintelligent voter in marking his ballot.

The inspectors belong to both parties, but they have no interest in watching each other, as there is no contest between the parties; the result is that there is usually an understanding between these inspectors, who are interested in one or more candidates upon the dominant party ticket, and they enter the booth with the ignorant voter and mark his ballot according to their own wishes. He referred to the Ninth ward in the city, which is overwhelmingly Democratic and is in the heart of the Polish district. Not one man in twenty who votes there can read and write English or even speak it, and the result is that when the vote is counted there are very few Democratic votes polled because these people vote the Republican ticket, where the principal fight is being carried on. They enroll for that purpose.

Referring to the methods of campaigning, Judge Murfin said that the city just before the primary "looks like a crazy quilt — there won't be a telegraph pole or a light pole or an electric heat and power pole that is not plastered with signs and names and faces of persons; they will get out extra editions of papers and extra pages. I have seen on the Sunday previous to a primary by actual count sixteen additional pages in the Sunday press of candidates advertising all the way from a full page in an important case to a small cut; some good looking men put in their own faces and some use false faces; I remember one time some fellow used my face. I don't know why. So that the ordinary voter before the primaries, with all this costly advertising and billboard and street-car advertising before him, is hopelessly confused and you cannot expect one man in 10,000 to be able under these circumstances to intelligently vote a ticket with as many different candidates on as this one.

There is probably ten times as much advertising done at the primary as there is at the election, for the reason that in this county during the last ten or thirteen years a Republican nomination is generally equivalent to an election."

Conspicuously unfit candidates have been nominated, and Judge Murfin mentioned the case of Hoffman, who received the Republican nomination, but was beaten by a Democrat because it was ascertained that he had been a grafter while coroner and had served time for it. The advertising matter in the newspapers was not calculated to furnish the voter good information, but the editorial support of a paper gives a man a tremendous advantage over his opponent.

Judge Murfin stated that he was opposed to the primary elections when they originated, and that he had seen some cases where they had worked out splendid results, but in the main he thought it a very serious mistake. He thought if it were submitted to a popular vote it would probably carry four or five to one, but those that have watched it and studied it are all against it, and he thought the time would come when they would get tired of it and repeal it.

The expenditure of money to get a nomination is lavish and startling. It is quite impossible to get a reputable business man to run for mayor. The reply is, "Why, do you think I will go through the sort of campaign that you have got to go through to be nominated?" And they would refuse.

Judge Murfin said that the Republican party in the State was obliged by its last platform to advocate a State-wide primary law and nominate everybody from governor down to coroner by direct vote, but at the last session of the Legislature they did not do that and he shuddered to think of what would happen with all the State officers to be nominated.

Referring again to the influence of the press, Judge Murfin said that he thought the editorial policies of the papers were dictated solely and entirely from the box office, that is, from their receipts; he did not mean, however, by this that the moneys paid to the papers by the candidates for advertising necessarily controlled their policy, but that the papers endeavored to get upon the popular side, knowing that to be upon the unpopular side

impaired the circulation and decreased their revenue from general advertising. Political advertising, however, was very profitable and the primary election last year netted the three largest papers of the city in general circulation over $20,000 increased advertising. In this connection it may be said Mr. Hunt, formerly connected with the Detroit *Journal,* estimated that the newspapers of Detroit received for the personal advertising of candidates before the last primary something like $110,000.

A very significant statement was made by Judge Murfin: "The thing locally about the primary election that has disgusted me more than anything else is the fact that every man in touch with the situation is honestly and at heart opposed to it and none of them dare say so. I just went around on this floor here this morning while I was waiting for you gentlemen to come, just to see merely around among the men who are holding various offices, and every officer on this floor with one exception is at the bottom of his heart absolutely opposed to primary elections and knows that it is wrong, and you cannot get one of them to say so except in a very confidential way, and they stand out and advocate it and push it on the stump and put it in their platform, and if one is only running for county clerk he will say that he is for primary elections."

It was popular because of its history, but if a secret ballot could be taken he believed it would be beaten; in the State at large, people who are not in touch with it and have not seen just what are the defects in its operation still think it is a great thing. Theoretically it is ideal, but it cannot be made practical. The defects are inherent and not capable of legislative correction.

The witness referred to the last primary and the acrimonious debate conducted by the rival candidates:

The Republican primary ballots cast for governor were..	200,911
Democratic primary votes cast for governor.....	11,643
Governor Warner received at the election.....	262,141
The Democratic candidate for governor received.....	252,611
Warner's plurality being.....	9,530
The plurality on the presidential ticket for Taft electors over Warner was.....	149,079

The other Republican State officers, who were nominated by convention, received substantially the same vote as the Republican presidential electors. This is attributed to the bitter discussion during the primary fight and men, who in the excitement of the primary called their opponents hard names, could hardly be expected to support them at the election. Ammunition was furnished for the other party and the question was frequently asked, "What did you say about him before the primary?" Except for the presidential ticket, Governor Warner would undoubtedly have been beaten.

Under the old system of nominating candidates spent but very little money before the convention, but now the expenses were trebled at least.

Judge Murfin said that none of his colleagues, with possibly one or two exceptions, approved of the direct primary.

He particularly condemned the nomination of judges by this method and called attention to the fact that there were twenty-eight candidates for circuit judge on the Republican ticket and they had to plaster their names and faces and advertising all over in order to perpetuate themselves in office, a thing that no judge ought to have gone through.

It is impossible to get proper men selected in that way. Some men will not go through that ordeal to sit on the circuit bench.

Referring to the operation of the primary in rural districts, Judge Murfin said that it was impossible to get a representative expression, as not one-third of the vote came out at the primary.

It is only in cases of contest where people come out to the primary and then usually not more than half of the total vote was polled. He mentioned primaries in which not 10 per cent. of the people came out. The delegate to the last constitutional convention was nominated by only one-twentieth of the total vote. Under the old convention system, when there were contests, Judge Murfin said, he had seen as many people at the caucuses as at the primaries. So far as special interests and corporations are concerned, it was fully as easy for them to control the primaries as the convention.

Henry M. Campbell, a prominent attorney of Detroit, partner of Mr. Russell, the general counsel for the Michigan Railroad

Company, and a member of the Constitutional Convention of 1907, was an interesting witness before the committee.

Mr. Campbell stated that he had never been ambitious for political office and had declined a good many times to run.

Mr. Campbell is the author of an article in the August, 1909, *North American Review* under the head of "Republican Government versus Initiative and Primary Nomination," and presented his views upon this subject and upon the subject of primary nominations, which are opposed to any of the methods of direct nominations in vogue. Mr. Campbell not only stated the situation in Michigan, but in Oklahoma, Oregon and other States where laws of this character have been in force for some time. He said that he had more or less correspondence with leading men in Oregon and that their views confirmed his, that the methods of the initiative, referendum and recall have invariably in the long run proved disastrous; that they failed absolutely to represent the majority and the sentiment of the majority of the people.

He particularly condemned the method of campaigning by the chief executive, who has been more than a month in going from town to town in an automobile, accompanied by a brass band and exploiting himself, passing out his pictures and asking for votes. His opponents were compelled to do the same thing and the expenses were enormous.

Mr. Campbell also spoke along lines similar to those discussed by Judge Murfin, and read into the record that portion of his article in the *North American Review* referring to direct nominations. Just a few words may be quoted as indicating the mental attitude of Mr. Campbell toward this subject:

"This system has been adopted in many of the States; and in practice has lead to some results quite different from what its advocates claimed for it. It has become apparent that only seekers after office become candidates for nomination — the office no longer seeks the man. The system destroys all party organization. Political policies and principles are entirely lost sight of in the confusion of individual ideas. It affords no opportunity for consideration of the fitness of candidates; each candidate, whether qualified or not, determines that question for himself.

"Voters are limited in their choice to such persons as present

themselves. If there are but two candidates, the one selected may be considered the choice of a majority of the people, as between the two; but it by no means follows that some one else would not have been more satisfactory than either, if some better method of ascertaining the real wishes of the people were provided. If there are more than two candidates, as is usually the case, the almost inevitable result is that the candidate selected is the choice of but a minority of the party; and as candidates multiply and the range of selection increases, a correspondingly reduced minority may foist upon the party a candidate who may be altogether objectionable to a large majority."

He referred to the Democratic candidate for lieutenant-governor, Patrick H. Kelly, a poor man, and said the question was raised and discussed in the papers as to whether he could raise money enough to carry on a campaign in the primary, but he had finally announced that he had succeeded in raising a campaign fund for this purpose.

It was stated that Julge Montgomery, who was a Republican candidate for Governor had stated publicly that he was in favor of direct primaries and Mr. Campbell referring to the Republican convention held in the spring of 1909, said that while the party endorsed officially the direct primary system, he believed it was the opinion of the majority of that convention that the system was not sound and if they had had the courage of their convictions, they would have denounced it instead of endorsing it; that there was a very strong sentiment upon that side.

Mr. Charles D. Joslyn, who has been appointed by two Governors as a member of the State Board of Fish Commissioners and is an attorney of standing in the city of Detroit, in general practice there for the past thirty-five years, also expressed himself very decidedly against the primary system in Michigan.

Mr. Joslyn has also contributed to the press a number of articles upon this subject. He maintains that the law fails to produce the results which are sought. Public sentiment in this State is undoubtedly against what is called the open primary, and in all the other crucial tests of this primary it has in effect become an open one.

When asked if he would advise his son to enter public life through this method of obtaining a nomination, he replied that he would advise him against it very strongly, and said that the whole tendency of political campaigns under their primary is not only degrading, but in many instances corrupting. He mentioned many specific cases where young men had been financially and morally ruined through the temptation and excitement of a campaign for nomination at a primary.

His attention was called to the statement of a gentleman, who expected to appear as a witness, but did not, to the effect that the people of the State of Michigan are dissatisfied with the primary law which they have, but complained that the politicians would not give them the kind of law that they wanted. Mr. Joslyn said in reply, that he knew that this was not correct, that the politicians had not hindered the movement, but had helped it along thinking they were making themselves popular; that they were constantly endeavoring to amend the law so as to overcome objections. He stated that the conservative business and professional element of society is opposed to the law and he did not believe that the bulk of the people of the State of Michigan are in favor of it. He thought that when it was first advocated they were, but that it had turned out as every primary law that he knew anything about did; that it was what its friends called "defective," did not produce the results they anticipated.

Each session of the Legislature had tinkered with the primary law and each election following that tinkering has produced the same failure. The defects are inherent and cannot be cured.

Referring to the participation of voters at the primary, he said that outside of Grand Rapids or Detroit, he should say that it was not above 8 per cent.

Mr. Fred R. Schmalzriedt, a young attorney in the City Clerks' Office, gave to the Committee the method of counting and canvassing the vote, and stated that it required sixty-four hours to count the primary ballot, with between seventy and 100 men working all the time.

The primary was held for three days so that the final results were not known until six days after the first day of the primary. Mr. Schmalzriedt was secretary of the board. He also

expressed his disapproval of the State primary in strong language, but believed that the city primary had worked reasonably well, although if there could be a delegate and convention system protected by law, he would prefer it in the selection of candidates for public office.

He characterized the Michigan Primary Law as a "regular farce." He also commented quite severely upon the growing practice of purchasing votes under the Primary Law.

Observation of the Michigan System.

While our investigation does not cover a great deal of territory in the State of Michigan, still conditions in other parts of the State than Detroit are referred to to some extent by the witnesses who appeared.

From the evidence produced before us, it is impossible to draw any other conclusion than that the Michigan Primary Law previous to the law of 1909, which had not yet been tested, has proven very unsatisfactory, and the fact that such drastic changes and amendments have been made in the law of 1909 would indicate that at least a majority of the legislators disapproved of the law of 1907.

It does not appear to have improved political conditions that existed under the delegate and convention system.

The apparent desire to furnish everybody with an opportunity to vote at the primary by allowing three days has been without results, and the percentage of attendance is even smaller than in many other states where there is but one primary day.

As far as the Committee were able to ascertain, there is but little in the Michigan Primary Law that would be profitable to copy into any law to be enacted in this State.

DIRECT PRIMARY LAWS IN STATES OTHER THAN THOSE VISITED BY THE COMMITTEE.

No investigation has been made of the primary laws of the Southern States, for the reason that they bear many characteristics of a preliminary election, on account of the electoral conditions.

A brief digest of the principal statutes of the Northern States relating to primary elections follow. The primary election laws of these States are in pamphlet form in the State Library.

CALIFORNIA.

In California, the first primary law adopted was held to be unconstitutional. An amendment to the constitution permitting such law was subsequently adopted, submitted to vote and ratified. A State-wide direct primary was passed in 1909.

The act does not apply to special elections, presidential electors, municipalities, whose charters provide a system of nominating candidates, officers for reclamation of irrigation districts, school district officers other than in a city, or delegates to national conventon.

Graduated percentage of signers to nomination petition required not exceeding 10 per cent. Filing fee of from ten to fifty dollars required. Separate ballots for each party.

Primary election officers are the same as for general election. Party committees elected at the primary. Limitation according to office of expense to candidates for nomination, based upon the number of votes cast and statute designates what legal expenses are allowed.

MISSOURI.

Laws of 1907, page 262. Mandatory for entire State, including United States Senator and excepting presidential electors and national delegates. County committeemen are chosen at the primary, who in turn choose delegates to district convention. The party castng 1 per cent. of the vote s subject to the law.

Separate party ballots are used and graded percentage requirements for signers of the candidates' petitions.

The party State platform is framed by the State committee, consisting of two members from each congressional district.

NEBRASKA.

Laws of 1907, Chapter 52. Mandatory for entire State, including United States Senator, excepting local officers and officers of cities under 25,000. Delegates selected by county committees to State convention formulate platform and the candidates appoint campaign committees. A filing fee for candidates at the primary is required varying from five dollars for county, legislative and city officers to fifty dollars for United States Senator. The candidate's name may be on more than one ticket if so designated. Separate party ballots are required and an enrollment of party affiliation. The party polling 1 per cent. of the vote is subject to the law.

NEW JERSEY.

The Pimary Election Laws of New Jersey were amended in 1906.

It provides that nominations for presidential electors, governor, members of Congress, of General Assembly, State Senate, county clerk, surrogate, register of deeds, sheriff, county supervisor, coroner, mayor and for all elective officers in the State and in the cities, towns and other municipalities of the State to be voted for at the general election for members of Assembly by the voters of more than one ward or township, shall be nominated at conventions composed of delegates chosen at primary elections held pursuant to the act. All candidates of political parties for offices to be voted for at the general election for members of Assembly by the voters of a single ward or township shall be nominated directly without conventions at the primary elections. Primaries are conducted at public expense.

NORTH DAKOTA.

Laws of 1907, Chapter 109. State-wide and mandatory, including United States Senator, but excepts officers of cities and minor localities. Nomination papers are to be signed by from 3 to 5 per cent. of the voters and a filing fee of 1 per cent. of the salary is required. Separate party ballots are provided and parties polling 5 per cent. of the vote for Governor are subject to the law. Nominees must poll at least 30 per cent. of the vote. Names to be alternated on the ballot.

OHIO.

The law will be found at page 214 of the Laws of 1908. It applies to county, city and local officers, congressmen from one-county districts. It may also include United States Senator. County committeemen are chosen at the primary. Nominations are made by petition signed by 2 per cent. of the voters. Separate party ballots provided and a party polling 10 per cent. of the vote cast is subject to the law.

OKLAHOMA.

Laws of 1908, Chapter 31. Mandatory, State wide, including United States Senator, and excepting presidential electors and national delegates. Delegates are selected at the primary and formulate the platform. State, county and city committeemen are chosen at the primary. Graded number of signers to petitions is required. Separate party ballots of different colors are furnished and enrollment of party membership provided for. A limitation in amount of expenditure in primary campaign is provided for.

OREGON.

Laws of 1905, Chapter 1. Adopted by initiative and referendum. It is mandatory for State and for district, county and municipal elections, in unit of over 2,000 population and includes United States Senator. Precinct committeemen are chosen at the primary and they form county and city committees and elect member to a State committee. Candidates' petition must be

signed by 2 per cent. of the voters. Separate party ballots of different colors are provided. The law provides for party enrollment. Only parties casting 25 per cent. of the entre vote are subject to the law. This provision eliminates many minor parties and reduces the expense of providing ballots for parties so largely in minority that contests for nominations are unlikely.

SOUTH DAKOTA.

Laws of 1907, Chapter 139. Mandatory for the State, including United States Senator, but excludes city and town officers, which may be included by popular vote. Precinct committeemen are chosen at the primary and county delegates, one for every 100 votes of the party, form the State convention and adopt the platform. Candidates' petitions must be signed by from 1 to 3 per cent. of the vote for candidates, and a graded fee of from five to fifty dollars is required. Separate party ballots of different colors are provided. The nominee must poll at least 30 per cent. of the vote, otherwise the choice goes to the convention.

WASHINGTON.

Laws of 1907, Chapter 209. Mandatory for entire State including United States Senator. Excludes fourth class city, town and some local officers. Precinct delegates to county convention chosen at primary. Filing fee of ten dollars with 1 per cent. additional on salary over $1,000 required. Separate party ballots are provided and the names entered in the order of filing petition. All judicial candidates are on non-partisan basis and must appear on all ballots. Only parties that poll 10 per cent. of the vote are subject to the law. The objects of expenditure are named and limitation provided for. Selection of State candidates, when there are four or more for any office, there is provision for "second choice" voting and such choice is counted if no first choice nomination is made by 40 per cent. of the vote.

Of the states above mentioned the law seems to have been longest in operation in the State of Oregon, which was passed in 1905. This law was enacted upon initiative petition at the June election held June 6, 1904.

So short a time has elapsed since the enactment of such legislation in the States mentioned that the operation of the laws must be regarded as still in the experimental stage. Many of the States have had but one trial and as many of them have biennial elections not more than two or three tests of the primary have been had. Many amendments are introduced at every session of the Legislature intended to overcome defects that were apparent in such trials of the law as have been had.

NEW YORK STATE.

The resolution appointing the Committee authorized it to take evidence in the State of New York, and it was therefore deemed wise to obtain such evidence as was available as to the working of the Primary Laws of this State in the cities of Buffalo and New York, and also to obtain some evidence as to the methods pursued in nominating candidates in rural counties, and to ascertain the reasons, if possible, for the general demand for primary reform throughout the State.

Sessions of the Committee were accordingly held in the city of Buffalo, in the county of Orleans and in the city of New York. It would have been profitable, had time permitted, to have held sessions in other cities and rural counties, but the Committee felt that it was able from such hearings as it had to get a fairly correct idea of the methods pursued in rural counties for the nomination of candidates for office, of the working of the primary laws now in force in our cities, and of the demands and necessities of primary reform throughout the State.

The more weighty objections made to the Erie county system, as disclosed by the evidence taken in Buffalo, were,

First. That an official primary ballot is not provided upon which should be placed the names of delegates to all conventions, whether the delegates suggested by the regular party organizations or other delegates who may be suggested by candidates acting independently.

The present practice is for the party organizations to prepare their own ticket, upon which are placed not only the names of the delegates suggested but the names of candidates for offices that are voted for directly like supervisor, alderman and ward committeeman.

An independent organization or a person desiring to be a candidate under these circumstances is obliged to furnish his own ticket and has small chance of success at the primary unless a full ticket is presented by such organization or individual to the voters at the primary.

Second. That the names of delegates and candidates to be voted

for at the primary are not required to be filed or their names published any specified time before the primary day, and it is inconvenient, if not impossible, for independent organizations or individuals, who may desire to be candidates, to ascertain in advance of the primary who are the delegates suggested by party organizations and who are the organization candidates for such offices as are to be voted for directly, including ward committees, etc.

If the so-called Erie county system should have added to it a provision for an official ballot for each party to be printed at public expense, upon which the names of all candidates for delegates to all conventions and all candidates for offices to be voted for directly, are required to be placed; and if all suggestions and nominations of delegates and candidates for offices to be voted for directly were required to be filed ten days or two weeks before the primary day, it would cure most of the evils now complained of.

If a joint primary were to be held by the regular election officers under all proper statutory safeguards as to party enrollment, etc., the system, we think, for a municipality like Buffalo would be quite ideal so long as partisan politics are permitted or thought desirable in the administration of municipal affairs.

In this connection very valuable suggestions looking toward an amendment of the law were made by Mr. George D. Emerson, the commissioner of elections of Erie county, whose testimony appears at pages 2803 to 2828.

It will be remembered that Mr. Emerson at the last session of the Legislature proposed an amendment providing in substance that the primary election should be held at the regular polling places in each district instead of rearranging those districts as is now the practice. This met the approval of the Republican, Democratic, Prohibition and Socialistist parties, was favorably commented upon by all the newspapers and there seemed to be no objection in the system. It passed both houses of the Legislature without comment or criticism, and failed of executive approval.

Mr. Emerson believed that with such amendment as suggested the law would be quite satisfactory to the electorate of the city — that it is now quite satisfactory, and there is no general agitation for a change. The city still has the convention system outside of the three ward officers, supervisor, alderman and constable, but the

party could extend the direct system to mayor, if they so desired, but that is not the practice in either party.

Hon. Ansley Wilcox, of Buffalo, testified at some length before the Committee and made numerous suggestions as to the modifications of the Primary Law, the shortening of the ballot by the elimination of minor offices, and submitted in writing some plans for direct nominations of candidates for city offices, all of which are printed at length in the record of his testimony, pages 2650 to 2710.

Mr. Wilcox's suggestions had reference almost entirely to municipal elections and it is impossible to set forth at length in this report the methods advocated by him. Upon the general question of direct nominations, he said, page 2700: "I would like to say this more distinctly than I have yet, that my belief is that an attempt to extend the direct primary system beyond the limits of a compact community so as to spread it over the entire State would be fatal to the cause of good government in the State and that it involves evils and dangers which are of the first magnitude. * * * I believe, notwithstanding the good motives and the high ideals that I know underlie the bill and which are of the best, that its results would be precisely the opposite that its advocates expected and that it would do great harm and no good."

Mr. Wilcox strongly advocated a limitation upon the amount of money that a candidate for nomination might expend.

Mr. Henry Adsit Bull, a prominent lawyer of Buffalo, explained to the Committee in detail the method of nominating candidates in Buffalo, and pointed out the specific objections above alluded to, that is, the failure to file lists of the proposed candidates long enough before the primary day to enable those who might wish to contest to do so with knowledge of the names of the delegates or candidates against him. Mr. Bull expressed himself strongly against any plan by which a political organization should have any advantage of an artificial character in favor of the candidate that they recommend, and advocated that all candidates should have an equal show before the voters of the party.

The practice in Buffalo of not disclosing the names of delegates and candidates is the vital point of the whole system and has provoked a lot of criticism. The criticism has been directed to

that feature of the law and the practice under it, and some have condemned the entire system instead of looking for a particular point of weakness.

He also advocated such an official ballot as the Republican State convention in 1908 declared in favor of. He advocated also the Massachusetts or Australian ballot for primaries, but was not in favor of it for use in general elections.

Another objection to the present system is that the ballot is not a secret ballot at the primaries, but they are distributed in advance in large numbers and it is perfectly possible for the committeemen to put a ballot into the hands of a voter and watch him while he goes up and votes that identical ballot.

There should also be a sample ballot which an illiterate voter could mark or have marked for him and take to the booth and mark his ballot to correspond.

Mr. Bull also advised that the primary day should be combined with the first day of registration, not only for the purpose of saving expense, but in order to attract more voters to the polls on that day.

Mr. Bull thought that member of Asesmbly in Buffalo could be nominated by direct nomination, as the Assembly district is only about twice the size of some of the largest wards, but would not extend the system beyond that.

Another suggestion worthy of consideration was that the law should provide that no person holding an appointive office under the national, State, county or municipal government should be allowed to serve as the committeeman of a party or as a delegate to any convention; the reason being that an appointee owes his position to some superior officer, in whose interest he would endeavor to make up a "slate" of candidates. The convention ought to be made up of men who have no strings on them whatever, who will vote and who are free to vote according to what they think right, without being liable to lose their jobs if they do not vote the way somebody else wants them to.

Another very important suggestion, and one which was frequently made to the Committee and which has been used as a basis of argument in favor of a State-wide direct nomination scheme, is in reference to the so-called intermediate convention; and he ad-

vised that such conventions be abolished and delegates to all conventions be elected by direct vote at the primary. This would make conventions more truly representative.

In cases of a contest in the convention each delegate casts the number of votes which were cast in his district for the candidate of his party for Governor at the last preceding election, except the delegates from certain rural towns, who are allowed double the number of votes cast for the candidate for Governor. Mr. Bull condemned this practice and thought that there should be a straight delegate vote.

Mr. Wallace Thayer appeared before the Committee, interested particularly in the so-called Hinman-Green bill, and stated that the principal defect in the Erie county system is that the mass of voters do not attend the primaries, and when asked as to whether that was a defect in the law or a lack of interest on the part of the voter he replied: "It is a defect in the principle of the law," and severely condemned the delegate system upon the assumption that delegates were manipulated by political organizations in convention. Mr. Thayer spoke at length in condemnation of the convention system, and particularly condemned the practice in Buffalo of not disclosing the names of the delegates who were suggested by political organizations, and the fact that the law compelled a person who might wish to act independently to print a ticket and create an organization throughout the city that could contend with the regular organizations of the great parties.

If the present law should be amended so as to compel political organizations to publish their ticket long enough before the primary to give every voter exact information as to the candidates and delegates proposed, it would overcome some of the evils, but not the greatest.

Referring again to the Hinman-Green bill, Mr. Thayer thought it would work excellently for Governor, but it would operate unjustly, if at all, in selecting the other State officers, such as Secretary of State, State Engineer and Surveyor, etc.

Mr. H. D. Butterfield, connected with the "Direct Nominations League" of Erie county, also called attention to the defective working of the Erie county system along the same lines mentioned by Mr. Bull.

Mr. Lewis Stockton, president of the "Referendum League" of Erie county, appeared in opposition to the principles of the present primary election law, and also in opposition to the principle contained in the Hinman-Green bill, and went into a general discussion of the subject. His principal objection to the Hinman-Green bill was the provision for a party committee, which he thought could be impressed by party leaders into making nominations according to their dictation, and that it would perpetuate a system whereby party nominating committees are so brought under the party leaders' influence that the party nominees become practically an appointment of the party leader.

He commended the Oregon Referendum Law. The organization represented by Mr. Stockton is non-partisan and particularly interested in city affairs. He condemned the party method of government of cities, commending particularly the plan recently adopted in Boston. He would not extend the nomination of officers by petition beyond the confines of a city, and would only apply it to such cities as voted for it.

The Committee was also favored by the testimony of Mayor James N. Adam, who spoke generally in favor of non-partisan administration of city affairs.

He opposed the personal enrollment, particularly in primaries, for the nomination of city officers.

The mayor said that he had never affiliated for the purpose of voting at the primary, although he was supposed to be a Democrat.

Mr. John J. Smith, of Buffalo, expressed himself in favor of doing away with the system of convention and the nomination of city and county candidates by direct vote, but he would not abolish the Assembly, Senatorial and State conventions.

It was also disclosed by the testimony of some of the witnesses in Buffalo that there was a considerable number of persons who apparently voted the minority ticket at the election and who lived in wards where the opposite party was largely dominant, enrolled themselves with the opposite party for primary purposes. It was impossible to ascertain to what extent this practice prevailed; it simply showed the tendency and possibilities under the enrollment law.

In cases of contest in various wards, as shown by the evidence of Mr. Emerson, commissioner of elections, the attendance at the primaries frequently amounted to 50 or 60 per cent., and where there were no contests from 10 to 20 per cent. of the enrolled vote.

The Committee held a short session at Albion, Orleans county, and a number of witnesses volunteered information as to the method of conducting caucuses and conventions in that county, which has only three large towns, Albion of about 5,000, Medina of about the same size, and Holley of about 2,000. The total population is about 31,000. The county is nominally Republican by about 1,800.

The Republican party holds one convention which nominates candidates and elects delegates to other conventions, and in this convention each town, regardless of population, is represented by five delegates, and there seems to be a strong opposition to any other method of representation according to population. There are six towns that have a much smaller voting population than the other four and they seriously object to the change as it would give the other four towns the control; as it is the six country towns control the nominations. Under the proposed Hinman-Green bill four towns could control the nominations.

On the other hand, the Democratic party is represented in convention by two delegates from every election district, making forty-four for the convention, and more nearly representing the population than the method adopted by the Republican party.

The early calling of the conventions and caucuses and the lack of any definite date for these is strongly criticised. The practice has been to hold caucuses of both parties upon the same day throughout the towns of the county.

County Judge Isaac S. Signor, who testified before the Committee, thought if the date and method of holding caucuses and date and method of conducting conventions were fixed by statute it would be more satisfactory to the people in general.

It also appeared from Judge Signor's testimony that town officers were nominated by conventions, the delegates being elected at school district caucus.

Judge Signor advocated personal registration in the rural districts and thought that the farmers in the country districts should

be compelled to personally register, whether they liked it or not; that a man that does not take interest enough in the election to spend two days, one to register and one to vote, ought not to be a voter. He also advocated that primary day should be held on the first day of registration, and that there should be a limit to the expenditure of money in obtaining nominations.

Mr. Herbert T. Reed, clerk of the Surrogate's Court; Mr. Spencer W. Tanner, an Independent Democrat; Mr. Thomas E. Kirby, formerly district attorney of Orleans county, and Mr. Lafayette H. Beach, formerly a newspaper publisher, also appeared before the Committee and explained the methods of nominating candidates in Orleans county.

Attention is called to the fact that there is little uniformity in the method of nominating county officers and electing delegates to other conventions in the various rural counties.

In Orleans county, as above stated, the unit of representation in the Republican party is the town, while in the Democratic party it is the election district. In other counties each town has a minimum representation and the delegation is increased according to the voting population.

Some towns in the same county hold a town convention, delegates being elected to this town convention from the school districts or from election districts, and the town convention in turn elects delegates to the county convention. In some counties two or more conventions are held, one for the nomination of county officers and another for the election of delegates to judicial, senatorial and State conventions.

There is a practice in some towns where there is a contest between two candidates in the same town for the same or different county offices, of voting directly for the candidate and allowing the candidate to name the delegation, who shall be favorable to his nomination.

Another plan is for the candidate to select a delegation placing his name at the head under the designation of the office for which he is a candidate, and the caucus then votes for the contesting delegation.

The attendance at the caucuses in cases of contest compares favorably with the attendance at the primary elections in the

western States where there are spirited contests between candidates.

In some caucuses the delegates to a county convention are nominated and voted upon one at a time, and in others the entire delegation is elected by a vote cast by the secretary of the caucus.

In order that the votes of the delegates to conventions may be known to all it is not an unusual practice to require that delegates, upon roll call, shall be required to arise and announce their choice for any candidate being voted for, and this practice has received a good deal of commendation.

The principal evil of the delegate and convention system in rural districts in the State complained of is the practice sometimes indulged in by party leaders of calling caucuses at different dates in different towns, sometimes early, sometimes late, without sufficient notice.

In many counties it has come to be an established rule of the party that all caucuses of a political party shall be held upon the same day, usually two or three days before the convention, and this practice is to be commended, and if the date of holding caucuses and conventions had been fixed by statute, and not longer than sixty or seventy days before the election, much of the criticism which has been made against the delegate and convention system in rural counties would never have been uttered.

The Committee desired information as to the operation of the Primary Election Law of this State in the city of New York, and also upon the question as to whether or not a so-called "fusion" could be readily effected under a general system of direct nominations.

The Committee accordingly met at the Appellate Division court house in the city of New York on December 9, and was favored with the attendance of

Hon. William H. Wadhams, president of the Direct Primary League;

Professor Henry Jones Ford, professor of politics in Princeton University;

Professor Frank J. Goodnow, professor of administrative law and Municipal science in Columbia University;

Hon. William M. Ivins, of New York;

Mr. Robert S. Binkerd, secretary of the "City Club" of New York;

Mr. William B. Selden, chairman of the Cleveland Democracy, and Dr. Charles W. Eliot, president emeritus of Harvard University.

Judge Wadhams explained to the Committee how "fusion" in the last municipal election was brought about between the Committee of One Hundred and the Republican city convention, and said that he regarded it as one of the great advantages of the Committee plan under the Hinman-Green bill that it lends itself readily to bringing about a true fusion, that is a union of diverse elements upon a ticket which should be so made up as to appeal to the voters in each of the parties joining in the fusion, so as to elect a ticket by a combination of those elements as against some common enemy. He claimed that such a self appointed committee as the Committee of One Hundred could enter into negotiations with the legalized committee provided for in the Hinman-Green bill, and as a result of such conference be able to obtain from the party committee an endorsement of candidates suggested by the fusion committee, or an endorsement of the candidates suggested by the party committee by such fusion committee, and that such result would add great strength to the party candidate. This, of course, would not prevent any independent candidate for the head of the ticket or any minor position upon it from making an effort to obtain the nomination. He claimed that Mr. Bannard, the Republican candidate for mayor, who was endorsed by the Committee of One Hundred, was handicapped in his contest because under the present system there was an entirely unofficial selection.

At the primary, if the party voters do not desire a fusion they can substitute some candidate of their own.

Other candidates may seek the nomination and might prevent fusion by means of their political activity, but Judge Wadhams did not think it likely.

He cited the case of D. Clarence Gibboney, the candidate for district attorney in Philadelphia, who, under the Pennsylvania Primary Election Law became the nominee of the William Penn party and Democratic party, and received a large vote from the

Republican party, and asserted that under the Hinman-Green bill, if fusion was desired, Democrats could be candidates for the nomination upon the Republican ticket, but if he were put upon the Republican primary ticket he could not be voted for by those members of the Democratic party who might desire fusion, and who could and would vote for him if on the Democratic ticket.

Judge Wadhams also maintained that party enrollment was necessary in order to have any success in direct primaries. He declined to make the general statement that the Hinman-Green bill meets all the necessary requirements of a Direct Primary Law and is satisfactory in every way; he thought it was the best bill that had been suggested, but that there were certain minor features of it, more particularly with reference to the machinery and the method of carrying out the preliminaries for the making of suggestions to be presented to the enrolled voters on primary day in the counties up the State, which might be improved. One suggestion was that the election district rather than the town should be the voting place, in charge of the regular inspectors of election. He thought the method of counting the ballots and giving credit to the candidates should be left to the party committees to determine for themselves.

One of the serious objections to the present method of conducting primaries in New York city is the fact that there is no official ballot and the party committeemen make up the ticket so that anyone who desires to contest it must get up an entire ticket. An official ballot upon which all delegates should be placed, whether suggested by the party committees or by party members or groups of members on petition, would in large measure remedy this condition, if they were obliged to file their list of delegates and candidates a certain number of days before the primary, with an opportunity to present counter-lists.

Professor Henry Jones Ford, of Princeton University, was a voluntary witness before the Committee, and discussed in a general way direct primary systems in the United States. Professor Ford takes a very strong position against any system of direct nominations, his argument covering the general objections stated by so many witnesses who were before the Committee in the States where direct nominations systems are in vogue.

Professor Ford is the author of an article on the Direct Primary, published in the July, 1909, number of the *North American Review,* to which he made reference, and reaffirmed the views therein expressed. This article is made a part of the record as it is valuable from an historical and academic point of view, and it appears at the close of the testimony given by Professor Ford, at page 3103 of the record.

Attention is also called to letters received by the chairman of this committee and made a part of the record from page 3104 to 3115.

Professor Frank J. Goodnow, who has been connected with Columbia University for twenty-five years, and is the author of "Municipal Home Rule," "Municipal Problems," "City Government of the United States," "Municipal Government," and a book called "Politics and Administration," appeared before the committee. Professor Goodnow has made an extensive study, not only in this State but in the principal cities of the world, including Australia and New Zealand, of municipal problems and systems for the nomination of candidates for office.

When asked with reference to a possible fusion under the Direct Primary system, he said that it was certainly conceivable that any arrangement that might be reached between a minority party and independents would not be ratified at a primary of that minority party. That independent candidates might make an active campaign and obtain the plurality as against candidates suggested by a legalized committee under a direct primary law and fusion prevented. All fusion presupposes conference, preliminary conferences by self appointed committees. The best system for the nomination of candidates is that which will select people who will work together in the interest of the entire community, and result in better government. It is results that should be sought in all these matters rather than methods, and that method which secures the best results for an entire community was, in the judgment of Professor Goodnow, the best method. There is no theory in favor of any particular method. Any method which will be successful in reaching the desired result must eliminate a great many of the offices which are now under our system elected. Compared with the various municipal governments throughout the world our

municipal government is practically the only one that attempts to get very many of its officers through the processes of election. In England practically no one is elected except members of council; the same rule prevails in France and in Italy and in Prussia. It is absolutely impossible to conduct a municipal government successfully on the basis of the free general election of officers.

Professor Goodnow expressed the opinion that unless you have an extremely strong party organization where there is a great number of elective officers, you get a lot of people in office who will not pull together; there is no "team work" but individualism, and a government under these conditions is liable to be inefficient.

He said it would be extremely difficult for the ordinary voter to know the qualifications and characteristics of men who might offer themselves as candidates for public office in a city the size of New York, where it requires signs in four languages to tell the people to keep off the grass, English, Italian, German and Yiddish.

One suggestion made by Professor Goodnow to the Committee that drafted the Hinman-Green bill, was that following the English scheme of uncontested elections, if the suggestions or nominations made by party committees were not opposed, that they should not of necessity go before the primary, but should be regarded as nominees of the party. He thought this would save a great deal of expense and frequently the holding of a primary might be avoided as it would be a mere formality under such circumstances. Attention was called to the case of the candidate of United States Senator in Maryland, who had no opposition but was obliged to go through the formality of a primary at his personal expense of about $16,000.

Professor Goodnow does not regard the Hinman-Green bill by any means as an example of a pure direct nomination; that the committee system is a representative system.

Mr. Robert S. Binkerd, secretary of the City Club of New York, expressed views favorable to a direct nominations system along the same lines indicated by Judge Wadhams. He went to quite an extent into the history of nominating systems in the United States in an exceedingly entertaining and instructive manner. He advocated the abolition of all conventions and an extension of the direct nominating system to the State at large, but said that he

would like a blanket ballot on which he could vote for a candidate for each office, even though he might be Republican, Democrat, Prohibitionist or anything else; if, however, the party idea was to prevail, then enrollment, he thought, was necessary, and in this connection, that personal registration would be necessary in country districts as well as in the city.

He said he approved of the passage of the Hinman-Green bill in its present form, at least of its general principles, because he thought it a step toward a still better electoral system; he thought, however, that it was not quite fair that the candidates suggested by the party committees should be the first names under the designation of office, as it would give him an advantage with the illiterate voter.

Mr. Binkerd also expressed the belief that an official primary ballot and a requirement that the names of delegates and candidates to be voted for at the primary should be filed in advance of the primary, would take away part of the artificial advantage which is at present conferred on those who control the party organizations.

Mr. William B. Selden, the chairman of the Cleveland Democracy, presented his views to the Committee upon the direct primary plans in general, citing some instances of his experience in New York.

He expressed the belief, after a careful consideration and discussion with many gentlemen connected with the Republican organization, the Democratic organization and the Independence League, that the committee provision of the Hinman-Green bill would result in a political oligarchy for the two dominant parties in the State of New York. After their examination of the Hinman-Green bill they prepared a bill for an official primary which was subsequently introduced by Mr. Newcomb.

Mr. Selden was engaged for several months in the organization of the Cleveland Democracy, enrolling voters, etc., and secured quite an enrollment, and as a representative of that organization participated in conferences that endeavored to bring about fusion, and one of the objections which he made to the Hinman-Green bill was that it would not allow Independents any expression of opinion at all in the primary politics and would have been absolutely im-

possible under the Hinman-Green bill for an independent movement to have become inaugurated politically anywhere in the State of New York while that law was operative.

It perpetuates an oligarchy and leaves the voter powerless. It is simply centralizing more and more the power of a political organization into the hands of fewer and fewer people that are less responsible to the general voter.

Reference was made in the summary of the evidence as to the operation of the Primary Law of Massachusetts, to the testimony of Dr. Charles W. Eliot, president emeritus of Harvard University.

This evidence was taken in New York city at the close of the hearing there, and it is not necessary to repeat the substance of the statements of President Eliot, who severely condemned the direct nomination or primary law, so far as it affected municipal conditions in the city of Boston.

Mr. John R. Dos Passos, a prominent attorney of New York city, requested permission of the Committee to file a communication containing his views upon the subject of direct nominations, and the permission was granted, and the same is made a part of the record. Mr. Dos Passos expressed in earnest and vigorous language his disapproval of any system of direct primaries, contending for an improved representative system.

Jacob Gould Schurman, president of Cornell University, transmitted to the Committee a copy of his speech upon the subject of direct nominations delivered before the Committee of One Hundred at Utica on February 5, 1909, in which he takes a very positive position against the enactment into a law of a general system of direct nominations in the State of New York. President Schurman has reached his conclusions upon this subject after an extensive tour of the middle west and western states, including Oregon and Washington, and after a careful study of the systems of these states and conferences with leading citizens as to the results and operations obtained. In his letter of transmission President Schurman states to the Committee that he retains unchanged the views expressed by him in the speech referrd to, and maintains that the arguments presented by him against the system have not been satisfactorily answered.

The Cost of a State-Wide Direct Primary Law in This State.

The Committee has endeavored to obtain satisfactory data as to the expense to the public of conducting a single State-wide primary election, but as the compensation to election officers and the rental of polling places varies throughout the State it is quite impossible to arrive at any very accurate figures.

If a primary election is conducted by the regular election officers in each of the polling places in the State, so far as the conduct of the election is concerned, it will cost substantially the same as the regular election, excluding the cost of registration.

In New York, Kings, Queens and Richmond counties there are 1,633 election districts and 3,035 election districts in the balance of the State, making 4,688 in all; eight election officers are required by law to be in charge of each polling place, and the compensation varies from two to six dollars a day. It is, however, the practice to allow for two days because of the counting of the ballots. The canvass of primary ballots will ordinarily require more time than the canvass of the election ballots, because the vote cast for each individual candidate must be counted separately as there will be no such thing as "straights" and "splits." The experience of the city of Detroit, which has had a central canvassing board for primary elections, as previously stated, is that it required from seventy to one hundred clerks sixty-four hours of continuous session to canvass the vote cast at one primary. Taking into consideration the fact that a separate ballot and not a blanket ballot must be published for each party casting 10,000 votes at the last general election and that sample ballots must also be provided for each party, and that notices of the primary election must be published in the newspapers, and nomination petitions and other notices must be furnished to county clerks, Secretary of State, and all necessary forms for canvassing the ballot, certifying nominations, and making returns must be printed at public expense, that in most districts polling places must be rented, it is, we think, a conservative statement that the average cost to each election district will be not less than seventy-five dollars, or approximately $350,000 for the entire State. The Committee would be glad to be furnished with actual

data, but in arriving at this estimate it has also compared the expense in other States where similar primary elections have been held. A single primary in the city of Philadelphia costs the city approximately $100,000, and the election officers are paid only half fees. At the primary held on the twenty-second of January last forty tons of paper were used for primary ballots alone.

While the item of public expense, if reasonable, ought not to be considered if there are large compensating advantages in the operation of this system, nevertheless we think the public should be informed so as to take this matter into consideration, before enacting into a law a system which adds a considerable amount to the moneys necessary to be raised by taxation, which expense is mostly borne by political organizations or voluntarily contributed by its members.

GENERAL OBSERVATIONS.

As before stated, direct nomination schemes made mandatory by law, in other than small territories, are still in an experimental stage. There is a wide diversity of opinion among patriotic and well-meaning citizens as to their desirability as a means of selecting candidates for elective offices.

It cannot be said with truthfulness that only the "bosses" or machine politicians oppose the system, nor can it be asserted with confidence that only idealists or opportunists, who are willing to advocate anything that seems for the moment to meet with popular favor, are its friends.

The investigation of this Committee convinces it that no political movement in recent years has so excited the public mind, has aroused so much animosity, has split national parties into such bitterly opposing factions, as has the agitation for and the operation of direct nomination systems in the several northern States which are trying the experiment.

The people have the right and should exercise it of selecting their own candidates for public places, and by many any plan which promises to accomplish this desired result, is welcomed and accepted without question, whether theoretically defensible or not.

In all direct nomination systems the disappointment comes when

the voter, in the exercise of the privilege he has sought, enters the election booth upon primary day, demands the ticket of his party and finds that instead of selecting his own candidates, he must choose between two or three or a large number of men, who have simply nominated themselves by petition circulated either by the candidate or by some one employed in his behalf.

The universal practice in all direct primary States is for the candidate to employ some one to circulate a petition in his behalf, and such petition is of little value as an expression of the sentiment of its signers, as has been recently demonstrated in the mayoralty contest in Boston. One candidate had upwards of five thousand signatures to his petition and received less than seven hundred votes at the election. Another candidate had upwards of five thousand names to his petition and received less than eighteen hundred votes at the election.

So far, in the history of primary legislation, there is a great lack of uniformity in the different States. The question is often asked why it is, if those laws operate so badly in other States that they are not repealed. An examination of the history of these laws will disclose the fact that but one, two, or three trials in nearly every State is all that have been had under the system; the advocates of the law are attempting to amend it at each successive session of the Legislature, in many cases the amendments being of the most radical character.

The above question may be answered by asking another: If direct nomination laws accomplish such good results, why is it that in these States that have not adopted the State-wide direct primary but have primaries for county and district offices, there is no agitation to extend the system beyond the localities in which it was first operated?

The city of Boston for nomination of its municipal officers has used direct nominations for nine years or more and has given the system a very thorough trial. Its best citizens have concluded that it is vicious in its results and by legislative enactment and vote of the people, have abolished the direct primary for municipal officers.

It is true that many other States have adopted direct primary laws more or less extensive, and we are cited to this fact as one

of the reasons why this State should enact a system of State-wide direct nominations. The Committee does not concede the force of such argument.

It is also true that many of these States have adopted a Bank Guarantee Law, have lax divorce laws, and the State which has had a State-wide direct nomination system the longest, Oregon, has also included the Initiative, Referendum and Recall in its local system. Many southern States have adopted constitutional amendments designed to prevent the colored population from exercising the franchise. Conditions in the middle west and in the far west are very different from conditions in a State like New York, with more than one-half of its population located within the bounds of one city, in which is a very large foreign born population, many of whom who are naturalized citizens, but who cannot read or write the English language. The same condition exists in every city of the State.

It is far easier to put upon the statute books a bad law than to get rid of it when once enacted.

While it must be conceded that political conditions in the State and party control and management are not all that is to be desired, and that many just complaints have been made as to party management and the conduct of nominating machinery, the Committee is nevertheless convinced, from its observation of political conditions of the several States visited, in the middle west particularly, that no such reason exists here as in other States for so revolutionary a procedure as to abolish the representative system, which has been in vogue since we became a State, and substitute therefor a direct system of nominating candidates for public office. In very few localities where now are direct primary laws was there any previous statutory control or regulation of caucuses and conventions. Corruption and bribery in all forms of dishonest methods were commonly resorted to. No attempt was made, except in a few localities, to regulate party machinery by statute. The enactment of direct nomination laws, however, has not remedied, but has rather aggravated, the evils that existed under the convention system.

Candidates for public offices ordinarily find it necessary to expend large sums of money to further their canvas before the

primary, and all the evidence received tended to indicate that these expenses were increased several fold under the direct system. Not only that, but many men of slender means were tempted to enter the political arena and when once in, found the necessities so great and the temptations so many in a bitter contest between members of the same party, that they became financially and morally ruined.

Few men who are at all modest are willing to enter into such a contest for political honor. The system has disorganized and is disorganizing the majority party by building up factions that are much more bitterly opposed to each other than are national parties, which may be contending for supremacy by advocating different principles of government or methods of administration; and minority parties having no contests for nomination are taking part in the contests in the dominant party, which will ultimately result in their political extinction.

Party enrollment a year in advance of the primary is undoubtedly the best method of preventing the raiding of one party's primary by members of another, but it will not overcome the evil nor will it relieve the system of its essential difficulties.

It is true that a larger percentage of voters of majority parties frequently participate in the legalized direct primary, but the complaint is general also that the intelligent business men of the community take but little interest in its contests and the general attendance is due entirely to the personal activity of so many candidates, who, by the expenditure of large sums of money, by personal solicitation and through the paid advertisements of the press and its appeals, induce voters to enter the primary.

DEMAND FOR PRIMARY REFORM.

That there is widespread and real demand for primary reform cannot be denied. It should be assumed that all patriotic citizens are desirous of accomplishing in legislation the very best thing that can be accomplished for the Empire State. The question should be decided upon its merits.

It should be remembered that there are at least two principal political parties in this State and whatever legislation is enacted should be for all rather than for the control of the dominant party.

The argument most frequently heard in favor of a system of direct nominations is that it interests many more voters than the caucus and convention system. This is true only when there are contests at the primary election and not at the caucus; the converse of the proposition is also true; when there is no contest for nomination at the primary, it is a mere formality. It must not be forgotten that the minority party only in very rare instances has any contest at the primary, and the result is that frequently not five per cent. of the majority party's vote is cast.

If this system is an educational one, as is claimed, it leaves out of consideration the education of the minority party, which always selects its candidates by party agreement, places them upon the primary ticket and then sits quietly by and enjoys the factional fights engendered in the majority party, or enters into its primaries because of the solicitation of friends, or to help nominate weak candidates, who can be defeated at the election.

In New York city, there would be but few, if any, contests in the Republican party except in districts where dominant. Fusion, which has sometimes proven so desirable, it seems to us, would be very improbable under a direct primary. Outside of New York city, there would be few contests in the Democratic party, and the primary for them would be a needless formality and a useless expense.

If a State-wide Direct Nomination Law, or any direct nomination law, is of doubtful propriety, it should not be enacted; it should not be tried simply as an experiment. The State cannot afford to experiment with measures of this character. It can better afford to await the results of the experiments in other States, and in the meantime seek to perfect our representative system by statutory control.

Many eminent men have represented the people of this State in prominent positions, all of whom have been selected by the representative system. The government has succeeded by this system, and if it cannot succeed as a representative Republican government and thereby effectually secure equal rights to all, it cannot succeed at all.

The demand for primary reform should be met with such legislation as will accomplish a real reform, and it is the judgment of the Committee that such primary reform should be enacted as will make the representative system more nearly representative, as will enable every citizen to secure the benefits of participation in political affairs, and as will also secure the best men for the public service.

In nearly all towns and villages of the State, we now have direct nominations for local offices, and it is very doubtful if the system can be extended beyond such districts. The continuance of the "town meeting" in such localities is, it seems to us, very desirable. It invites men, who are acquainted with each other, to get together and discuss their local affairs and select their local officers, and no system of regulated primary with official ballot can possibly accomplish for such localities as much as can be accomplished under the old town meeting method.

More essential than a State-wide direct nomination system is the reform now being agitated for a "short ballot," from which will be eliminated purely administrative officers and offices requiring technical and professional skill. If a system of direct nominations is ever to be adopted in this State, and if the Constitution shall be so amended as to provide for the so-called "short ballot," it will be the part of wisdom and good statesmanship to let the former follow the latter so-called reform. The tendency, however, in the direct primary States is to increase rather than limit the number of elective offices, the cry of those who seek to get into office being that the people should choose all of their public servants. With so many elective offices as there are now in this State, it must be conceded by all thinking men that it is physically impossible for the average voter to make any intelligent discrimination in the selection of candidates. The very fact that there is an agitation for a "short ballot" is in and of itself proof that men, who are thinking along these lines, are convinced that the voters at the election cannot wisely select so many officers as now are in the elective list. How then can they select from so many candidates before the primary?

In view, therefore, of the evidence received by the Committee and after a most careful consideration of this important subject we respectfully recommend:

First.—That a uniform primary day, not earlier than September first, except in presidential years, when it shall not be earlier than April first, be established throughout the State.

Second.—That a joint primary election for all parties be held at the regular voting places; be presided over by the regular election officers; be kept open not less than five hours, and governed by all the provisions of the Election Law relating to election day so far as the same may be applicable.

Third.—That all political parties, recognized as such by the General Election Law, be subject to the law.

Fourth.—That there be an enrollment of party voters throughout the State; such enrollment to be made at the time of registration where personal registration is required, and on the day of general election or on registration day, where personal registration is not required.

Fifth.—That an official primary ballot be printed for each party at public expense, upon which shall be placed the names of delegates to all conventions, appropriately designated and so arranged that the party voter may vote for groups of delegates, or for any of the delegates according to his choice, in other words, a "straight" or "split" ticket.

Sixth.—That party, county, town and ward committeemen be elected by a direct vote at the primary.

Seventh.—That the names of all candidates for delegates to conventions and committeemen be filed with appropriate officers a reasonable length of time before primary day.

Eighth.—That all so-called intermediate conventions for electing of delegates to other conventions be abolished.

Ninth.—That the date for holding political conventions after said primary day be fixed by statute and the procedure therein be also governed by law; that all delegates elected to sit in con-

vention and armed with a certificate issued by the custodian of the primary records to that effect shall be secure in their seats; that contesting delegations be heard by a Justice of the Supreme Court, or county judge of the county in which the convention is held.

Tenth.—That all voting in conventions by ballot be abolished, and that upon call of the roll each delegate be required to express openly his choice with respect to the various nominations, but State conventions may vote by counties if no objection is made in the convention.

Eleventh.—That the number of delegates to the several conventions be fixed by party rule, and that the unit of representation for various party committees be also determined by party regulation.

Twelfth.—That the law relating to corrupt practices at elections be amended so as to include the primary election.

A bill embodying the foregoing recommendations of the Committee will be presented herewith.

The resolution appointing the Committee is not broad enough to clothe it with authority to recommend the adoption of a concurrent resolution providing for the submission to popular vote of an amendment to the Constitution, eliminating from the elective system offices that are purely administrative or require technical skill, but it seems to us that the consideration of this subject is closely allied with the consideration of the subject of primary elections, and that it is worthy of the careful consideration of the Legislature.

The Committee and those associated with it entered upon the prosecution of their work with the sole desire to accomplish needed reforms in nomination methods and in election laws in the interest of the people of the State.

They believe that it will be unwise for the present, at least, to depart from the historic representative system, under which the political affairs of the State have been so long administered, and it is confidently believed that the measures proposed will provide

adequate remedy for conditions in our political life and activity which have become unsatisfactory, and the proposed primary reforms will accomplish the highest object of all political machinery — the selection of competent, conscientious, patriotic and faithful public servants for the administration of the affairs of the State.

Respectfully submitted by the Committee.

Dated at Albany, New York, February 16, 1910.

On the part of the Senate:

George L. Meade, *Chairman*
James A. Emerson

On the part of the Assembly:

Jesse S. Phillips, *Vice-Chairman*
Robert S. Conklin
Frank L. Howard
Julian Scott
James E. Fay

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